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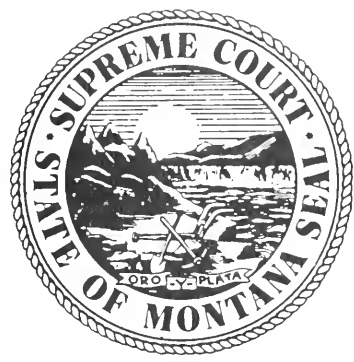
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**ANNUAL REPORT OF THE  
MONTANA JUDICIAL SYSTEM  
CALENDAR YEAR 1994**

**J. A. TURNAGE  
CHIEF JUSTICE**

**A PUBLICATION OF THE  
OFFICE OF THE  
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215 NORTH SANDERS  
HELENA, MT 59620**



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**1994 JUDICIAL REPORT**



**State of the Judiciary Address  
by Honorable J. A. Turnage  
Chief Justice, Montana Supreme Court  
to a Joint Session of the Fifty-Fourth Legislature**

January 27, 1995

President Brown, Speaker Mercer, members of the Senate and House, distinguished public officials, staff of the Fifty-fourth Legislature and guests, ladies and gentlemen.

Thank you for this honor and privilege to address this joint session of the Fifty-fourth Legislature.

I would like to take this time to highlight some of the Judiciary's workload, accomplishments and its concerns.

Before doing so, I think it appropriate to review some history and constitutional provisions that have placed the Judiciary of the State of Montana as a distinct and separate branch of Montana government with the Legislative and Executive branches.

The great charter of liberties of King John, the Magna Charta, granted at Runingmede, June 15, 1215, a charter of freedom for the individual, separated the of total power over citizens then concentrated in the hands of the king, and gave to individual citizens a voice in the control over their lives and liberties.

This topic of separation of powers is as important to the Legislative branch of government, as it is to the Judicial and Executive branches.

James Madison, a principal author of the Constitution of the United States, expressed it eloquently when he wrote:

**"The accumulation of all powers, legislative, executive, and judicial, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny."**

Madison's admonition found its way into the Constitution of the United States and is found in Articles I, II and III. This doctrine was adopted in the 1889 Constitution of Montana in Article IV, Section 1. In 1972 the people of Montana adopted Article III, Section 1, of the Constitution of Montana providing:

**"Separation of powers. The power of the government of this state is divided into three distinct branches--legislative, executive, and judicial. No person or persons charged with the exercise of power**

**properly belonging to one branch shall exercise any power properly belonging to either of the others, except as in this constitution expressly directed or permitted."**

It is beyond challenge or argument that the constitutional doctrine of separation of powers is the linchpin that holds the constitutional guarantees of our government together, thereby guaranteeing the right of our people to choose their form of government and to guarantee protection for life, liberty and property.

It is important for all of us to keep in mind that an effective government for the people of this state requires understanding and cooperation between the Legislative, Executive and Judicial branches, recognizing, of course, the constitutional limitations on their respective areas of authority.

It is when one branch of government attempts to exercise the power of another branch of government that the separation of powers doctrine applies. There are many areas of administrative nonpolicy matters in which inter-branch cooperation is needed and proper. For example, the state auditor, an executive branch officer, writes pay checks for the legislative and judicial branches. Clearly, this is not a usurpation of power prohibited by the Constitution.

Your perspective, the Governor's perspective, and our perspective within the Judiciary must be guided by the knowledge that a strong and independent Judiciary is crucial to the preservation of our life, our liberty, and our property. Words in our state and federal constitutions, and in our state and federal statutes, are only words until they are construed and upheld by our courts. Such provisions are not self-executing. Our state courts are our first line of defense against all attacks on our rights and liberties and are most crucial to maintaining stability in difficult and changing times.

Since my last address to a joint session, the Supreme Court has received 1,293 new case filings, an average of 647 for each year. These filings amounted to an average of 93 cases for each justice each year. During that same period of time, the Court wrote and delivered 805 published opinions, an average of 403 published opinions for each year. This amounts to well over one opinion for every calendar day of each of those years.

In addition to the opinions written and published, the Court disposed of approximately 500 other filings for an average of approximately 250 each year. These filings take a considerable amount of the Court's time. They are serious matters and consist of prisoner writs for habeas corpus, post-conviction relief, and other extraordinary relief. On the civil side there are many writs filed seeking supervisory control by the court or some other form of relief. A large number of these cases are disposed of by written orders. All of them require the careful attention of the Court, conference time and the drafting and signing of such orders. The history of increasing case filings in the Supreme Court over the past decades clearly demonstrates that filings will increase in the future.



In addition to the Court's work rendering decisions on appeals and other matters filed before the Court, many other duties of the Court require attention on virtually a daily basis.

The Court is responsible for the overview and management of many important boards and commissions--Sentence Review, Commission on Practice, Board of Bar Examiners and Character and Fitness of applicants for admission to the Bar, Commission on Courts of Limited Jurisdiction and other important programs mandated by legislation.

A matter of critical importance to the Judiciary of the State of Montana is the retention of the seven-member Supreme Court.

The 1979 Legislature, as authorized by the Montana Constitution, added two Justices to the Supreme Court because of a case load that was unmanageable by the five-member Court. This legislation carried a sunset provision that would have reverted the Court to five members at the end of 1988. In 1987 the Legislature extended the two additional Justices but again placed a sunset provision in the act. Unless Senate Bill 6 passed by the Senate and now in the House is enacted, the Supreme Court will revert to five Justices.

The case load of the Court today, with seven Justices, is equal to the case load for the five Justices in 1979 when it was clearly necessary to provide additional Justices to manage the ever-increasing cases filed with the Court.

Loss of two Justices would create a judicial crisis, with the core of the crisis judicial delay.

Judicial delay as a denial of justice was specifically recognized by the Magna Charta in 1215. Section 40 of the Magna Charta provides: **"To none will we sell, or delay, right or justice."**

Throughout Montana's constitutional history from 1889 to 1972 and to the present day, our Montana Constitution provides in Article II, Section 16: **"Courts of justice shall be open to every person, and speedy remedy afforded."**

Delay in the final resolution of litigation is a concern to all Montanans, and a specific concern to the judiciary. Delay results in added dollar cost to the taxpayer and to the litigants in the form of additional attorney fees and costs of litigation.

There is another cost of delay that is not measurable in dollars alone. It is the cost of human stress. Anyone who is a party to a lawsuit lives under a cloud of mental and emotional stress until the matter is finally resolved.

Opinions of the Supreme Court cannot be disposed of on a crash basis. Care and thoughtful deliberation must be given to every court opinion. To reduce the Supreme Court to five members would have the obvious result of increasing delay in the flow of case resolutions by approximately one-third. I believe you would agree that this would be an unacceptable imposition on your constituents' constitutional right to justice without delay.

The case that was presented to the Legislature in 1979 is still a good one. To move back to a five-member Court would be literally a move backwards. We cannot reasonably be asked to do more with less. Justice must not be rationed.

We respectfully ask your favorable consideration of Senate Bill 6 as it passed the Senate without a sunset provision. In the event the case load of the Court should be reduced to a point where five Justices could manage the work, the Legislature has the constitutional power to reduce the Court to five Justices. The sunset is not needed.

Montana's district courts are the general jurisdiction trial courts of Montana. The Legislature has divided Montana into twenty-one judicial districts that are presided over by thirty-seven district judges. New filings in calendar year 1994 amounted to approximately 30,000 cases. In the district courts, as on the appellate level, cases are tending to become more complex and difficult, requiring a greater investment of judicial time to resolve the disputes.

Montana's courts of limited jurisdiction, which include courts of justices of the peace, city courts and municipal courts, are presided over by approximately 120 judges and these judges preside over 224 different courts.

Courts of limited jurisdiction are very important in Montana. In calendar year 1994 over 300,000 new cases were filed in these courts. Most of the Montana citizens who come into contact with the judicial system will have that contact initially in courts of limited jurisdiction. The Legislature wisely has enacted statutes that require a very specific and important training program for the judges presiding in these courts. The quality of justice available to Montana citizens has been greatly improved because of these requirements. For example, the Legislature has required that each judge in a court of limited jurisdiction attend training sessions twice each year and pass a certification test periodically. Failure to attend or pass the test will result in a judge being suspended and removed from his or her position.

Montana's judicial system also includes two legislatively-created courts that may be identified as administrative courts, each of which play an important role in Montana.

The Workers' Compensation Court has a very heavy case load and is a focal point of matters of great concern to Montana--the workers' compensation system. This court must provide a just and fair system for resolving workers' compensation claims and disputes.

The Legislature also created the Water Courts of Montana which have a task that is almost beyond description in workload. Ultimately, this court system will put to rest the question of a fair and just determination of water rights of Montanans.

You will be provided with a detailed discussion of the statistics and other matters relating to each of the courts of Montana in the annual judicial report.

During the legislative process, occasionally a judge may wish to comment on a particular legislative matter or a legislator may contact an individual judge concerning a pending legislative matter. Although no judge should express an opinion how he or she would individually vote if any related question came before the Court, it should be noted, however, that Canon 23 of the Canons of Judicial Ethics provides that: **"A judge has exceptional opportunity to observe the operation of statutes and may contribute to the public interest by advising the Legislature from time to time on issues of judicial administration."**

You will be considering a number of bills that have a significant impact on judicial administration.

The 1993 session of the Legislature enacted House Bill 525 and created the Judicial Unification and Finance Commission, directing it to conduct a study of the financing and organization of the Montana Judiciary. In November 1994, this Commission filed its report with you.

The Commission's report proposed seven legislative bills, which I understand have been or will be introduced. Each of these measures deserves your careful consideration, particularly in the area of assistance in funding and the mechanism therefor in district courts in Montana. House Bill 188 is an act revising state and county responsibility for district court funding. This bill is a major piece of legislation deserving of your consideration and support.

The Commission also is recommending Senate Bill 127 to provide much-needed assistance to counties and the district courts in criminal cases in such matters as post-conviction relief and habeas corpus.

Other important legislative recommendations made by the Commission address district court record retention, court automation and assignment of district judges to other districts. The Commission also recommended the retention of the seven-member Supreme Court.

I have noted that there are bills in the Legislature addressing salaries for certain elected state officials. Among such bills is a bill to increase the salary of the Governor of the State of Montana. I hope the Legislature will find it appropriate to approve such a measure.

I understand that the total projected spending authority that the Legislature will provide state government for the two-year period covering the next biennium amounts to approximately \$6,171,486,000. The salary that you have provided for the Governor is \$55,502 annually. As chief executive officer, the Governor is responsible for overseeing and management of a biannual spending for state government in excess of six billion dollars, in addition to the many other discretionary duties that have tremendous impact upon and importance to the people of the State of Montana. Clearly, this draws into question whether or not that compensation is reasonable and fair.

Among other bills, you will be asked to consider a bill or bills relating to compensation for the Montana Judiciary--specifically, salaries of the thirty-seven district court judges and the seven Supreme Court Justices.

If Montanans are to keep and maintain a first-rate judicial system, we simply must have a compensation system which can reasonably be expected to retain and recruit our best lawyers to become judges. If embarrassment at being fiftieth in judicial pay in this nation were all that was at stake, I believe we could certainly stand it. However, the consequences of such low salaries go beyond embarrassment and threaten to undermine the judicial system itself. The current level of salaries offers little hope of insuring the future of our currently first-rate system.

It is my understanding that one of the bills that you will be asked to consider concerning judicial compensation will provide for a reasonable increase commencing July 1, 1995, and each six months thereafter until January 1, 1997. Once the increase is fully implemented, the bill provides for a judicial survey of compensation paid judges in our neighboring states of North Dakota, South Dakota, Wyoming and Idaho and adjusts the salaries commensurate with judges in these states.

We sincerely trust that you will find such proposals acceptable or at least provide a comparable compensation plan in some alternative that you may want to consider.

I bring to your attention that the total Judiciary budget during the next biennium amounts to three-tenths of one percent of the total spending authority of \$6,171,486,000. Certainly, the judicial branch, as a co-equal branch constitutionally in our governmental structure, is not being granted an excessive amount of the spending authority--three-tenths of one percent thereof.

There is another area of concern to the Judiciary, adequate support for the statewide automation of our court system. In today's world of technology, it is of great importance that our courts be provided the tools that will allow them to manage the ever-increasing number of cases with ever-increasing complexity that are filed on a daily basis.

Much has been accomplished; however, it must be understood that statewide automation of our judicial system is a difficult process with few shortcuts. The Supreme Court in initially addressing this concern realized that a uniform set of rules had to be put into place to avoid a problem where we would be faced with fifty-six different computer systems in our counties. Under the present system, a uniformity is required so that all court systems in the future will have the capability of communicating on a uniform software format.

Under the direction of the court administrator's office, much has been accomplished. Approximately one-third of all the courts of Montana have been advanced toward automation. By the fall of 1993, the office of the court administrator had installed product or provided support services to over 250 court-related personnel at fifty-four sites in nineteen judicial districts. The sites span the state from Sidney to Wibaux, to Libby to Virginia City and Chinook.

One of the important and difficult tasks that I had instructed the office of the court administrator to pursue is the development of our own case management system--in other words, the software that is required to run the computers. The importance of owning and developing in-house software is obvious. There is no need to pay an outside provider an exorbitant amount of lease money in order to use a software rented package. On a statewide basis in the long term, such in-house developed software, provided at no cost to the users in all of the counties of Montana, will save tax dollars in huge proportions.

For statewide automation, the Judiciary has been allocated on an average basis \$168,000 for each of the past several years. This is not an adequate sum to complete or manage a statewide automation program.

One example of the importance of immediate availability of data base information can be found in courts of limited jurisdiction where the Legislature has mandated increased penalties for those convicted of multiple drunken driving offenses. Without access to data base information, a repeat offender may have pled guilty in several of our Montana counties or municipalities and have been sentenced as a first offender each time because the courts simply had no way of knowing that this individual had been convicted in other Montana localities.

Another example of the importance of information available by data base is found in the requirement that sex offenders, particularly those convicted of child molestation, are to be tracked and monitored. Without a data base in our justice system, I doubt that this would be possible.

You will be asked to consider one or more proposals for providing a reasonable source of funding statewide judicial automation without resorting to the general fund. One such proposal will include, in part, a provision that upon conviction of a criminal offense, a five dollar surcharge will be required of the defendant at the time of sentencing. Such a source of funding would provide a stable basis without requiring additional pressure on the state general fund. We respectfully request your favorable consideration of such legislation.

Increased complexity of litigation and increased litigation in general will without a doubt confront our court system in the future. I would like to take just a moment to talk with you about an issue that has troubled me for some time. It hovers over our entire judicial process. Take a moment to think back to your own life experiences and ask yourself when was the last time you heard the simple statement, "I am responsible." In our criminal justice system, in our civil system, and as we are reminded daily in the media, in today's world nobody is responsible for anything. Either things just happen or, more likely, we are all victims. Evading individual responsibility is not an excuse--it has become a given. Unfortunately, this I fear is a public mindset, coupled with a lack of civility between individual citizens, which forms a nesting ground and rookery for increased litigation.

The Book of Genesis reminds us that shirking individual responsibility is as old as the story of mankind. When it came time to explain the missing fruit and the loss of innocence, Adam blamed Eve, and Eve blamed the serpent.

Our civil courts underpin our economy and way of life. They mirror and help develop positive changes in the economic, technological, ideological and moral conditions of society. They yield benefits far greater than those accruing to the litigants alone. For example, landmark cases represent turning points in law and social attitudes. Nonlitigants order their affairs by the results of these cases.

To those injured on the job or by a defective product, to victims of negligence, to those evicted unfairly, to defenders of our waterways against chemical dumping, to small businesses fending off monopolistic practices, to people with a grievance against their government, to abandoned children who need adoption or protective care, to farmers, ranchers and shop owners fighting to keep their properties and their doors open in difficult times, to those discriminated against on the basis of race, age, sex, religion, disability or other unlawful reasons, our civil courts represent the fulfillment of the basic need for fairness and justice.

In closing, I want to specifically acknowledge with gratitude the invaluable help and assistance of the State Bar of Montana. Its officers and members have unselfishly provided to the Court and the people of this State many services that were rendered without charge. Invaluable help and assistance has been provided by the University of Montana School of Law, through the time and effort freely given by Dean Rodney K. Smith and the faculty of the School of Law. I also recognize the professional and dedicated work and support of the staff of the Court and also Patrick Chenovick, court administrator and his staff. Without this professional and dedicated assistance, effective administration of justice would not be accomplished.

Times move quickly, and while the present may seem eternal, all too soon future generations will be here to appraise us as we now appraise the work of our forebears. When they do, they will hopefully conclude: This was our state--still in its youth--and we did our work well.

On behalf of the Montana Judiciary, I thank the members of the Legislature for their support and willingness to listen to the accomplishments and concerns of Montana's judiciary. With my personal appreciation, I sincerely thank you.





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### Addendum

Supreme Court Caseload Statistics



## PROFILE OF THE MONTANA JUDICIAL SYSTEM

### STRUCTURE OF THE COURT SYSTEM

The Judicial power of the State of Montana is vested in a three-tiered structure of appellate, general, and limited jurisdiction courts. These are represented respectively by the Supreme Court, District Courts, and Courts of Limited Jurisdiction.

In addition, legislatively created courts exist for the adjudication of special legal issues. The Workers Compensation Court and Water Court are examples of these specialty courts.

#### Selection and Removal of Judges

All Judges in Montana are elected in nonpartisan elections. Supreme Court Justices are elected for eight-year terms; District Court Judges for six-year terms; and all other judges serve four-year terms.

Vacancies in the Supreme Court and District Courts are filled by election if a term has ended, and by gubernatorial appointment if a vacancy occurred during a term. However, before a vacancy can be filled by gubernatorial appointment, the Judicial Nominations Commission must first submit a list of three to five nominees to the Governor from which the Governor must make an appointment. If the Governor fails to appoint within 30 days of receiving a list of nominees from the Judicial Nominations Commission, the Chief Justice or acting Chief Justice makes the appointment. Each person nominated must be confirmed by the State Senate. If the Senate is not in session the person nominated serves until the end of the next session of the Legislature. If the nomination is not confirmed by the Senate the office is vacant and another selection and nomination is made. An appointee confirmed by the Senate serves until the next succeeding general election. The candidate elected at that election holds office for the remainder of the unexpired term.

A vacancy in the office of Chief Water Judge is filled by appointment of the Chief Justice from a list of nominees submitted by the Judicial Nomination Commission.

A vacancy in the office of Workers' Compensation Judge is filled by appointment of the Governor from a list of nominees submitted by the Judicial Nomination Commission.

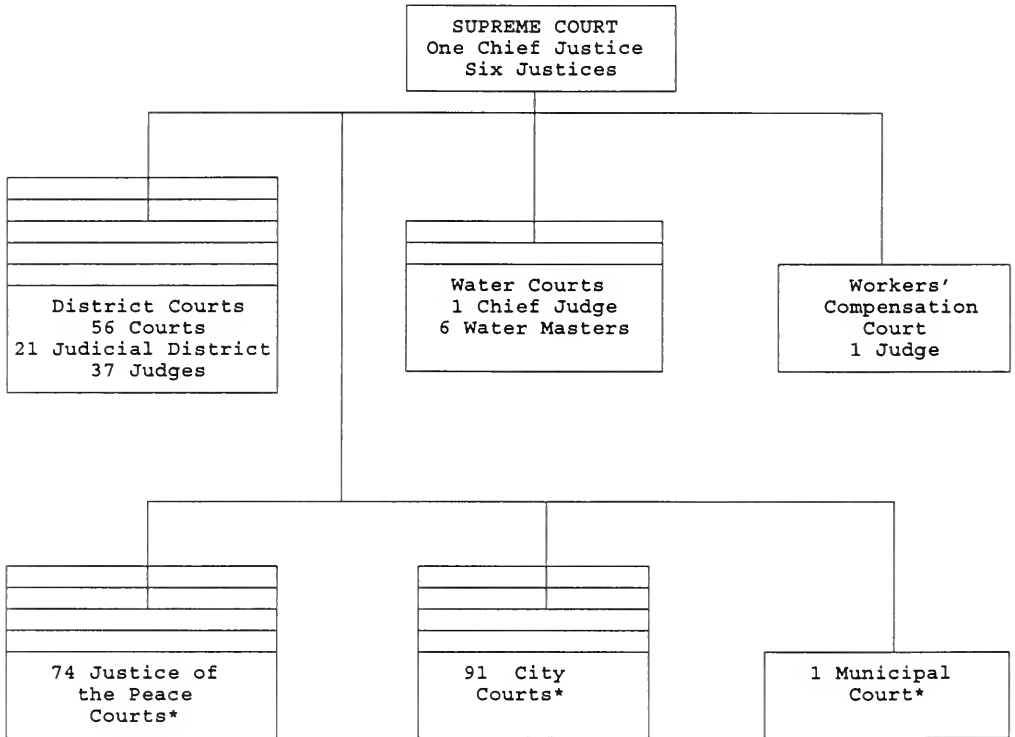
Vacancies in the office of Justice of the Peace are filled by appointment of the County Governing Body.

Vacancies in the office of City or Town Judge are filled by appointment of the City or Town Governing Body.

If a vacancy occurs in a Municipal Court, it is filled by appointment of the Municipal Governing Body.

Under the Montana Constitution the Supreme Court, upon the recommendation of the Judicial Standards Commission, may retire any justice or judge for disability that seriously interferes with the performance of his duties, or censure, suspend or remove any justice or judge for willful misconduct in office, willful and persistent failure to perform his duties, violation of the canons of judicial ethics adopted by the Supreme Court, or habitual intemperance.

# STRUCTURE OF THE MONTANA JUDICIARY



\*Montana has a total of 166 Limited Jurisdiction Courts. There are 120 Limited Court Judges. Forty-six Justices of the Peace also serve as City Court Judges.

## THE MONTANA JUDICIARY A BRIEF HISTORY

### SUPREME COURT

The Territory of Montana was organized by an Act of Congress, approved May 26, 1864. Section 9 of the Act vested the judicial power of the State in a Supreme Court, District Courts, Probate Courts and Justice of the Peace Courts.

The first term of the Supreme Court of the Territory of Montana was held in Virginia City on May 17, 1865. Hezekiah L. Hosmer who was appointed June 30, 1864 by President Abraham Lincoln served as the first Chief Justice. On June 22, 1864 Lorenzo P. Williston and Ammi Giddings were appointed Associate Justice. Ammi Giddings declined to serve, but his commission remained in force until March 11, 1865 when Lyman E. Munson was appointed to replace him.

In the early Territorial period, Justices of the Supreme Court each presided over one of the territory's judicial districts. This arrangement usually meant that when a case was appealed to the Supreme Court, one of the Justices personally had tried the case at the District Court level. This system changed in 1886 when Congress provided for the appointment of a fourth Justice and provided for disqualification on appeal of a Justice who had tried a case in District Court.

In the initial years of the Court, decisions about cases were rarely given in writing. In January, 1872, the Territorial Legislature provided for written reporting of Supreme Court decisions.

The July, 1889 term of the Territorial Supreme Court was the last term held before Montana became a State on November 8, 1889. When the Territorial Supreme Court adjourned sine die on October 5, 1889 -- the Territorial period ended and the modern era of statehood began.

Statehood brought several changes to Montana's Judicial System. During Territorial days, Justices and District Judges were appointed by the President of the United States. After 1889, Montanans turned to a system whereby they elected justices, district, and local judges and judicial officers. They hoped thereby to encourage "more prompt and accessible administration of justice". Justices, District and local judges were elected on a partisan ballot until 1909 when a brief and largely forgotten experiment in nonpartisan judicial elections was established. (Laws of 1909, Chapter 113) This law was enacted with only one opposing vote in the closing days of the 1909 session. The law prohibited partisan filings by judicial candidates and required their nomination by citizen petition. 1910 was an "off" year for judicial elections; only the Chief Justice and two District Judges were to be chosen. Chief Justice Brantly, known as a populist Republican won a third term receiving 39% of the votes in a field of four candidates.

Voters evidently missed party labels since the total vote cast in the 1910 nonpartisan contest was notably small. Fewer than half of those who voted for Clerk of the Supreme Court on the partisan ballot voted for the Chief Justice on the nonpartisan ballot. The experiment was terminated in 1911 when the Supreme Court on a complaint of a Republican candidate for Butte Police Judge held the legislation unconstitutional. The 1935 Legislature (Laws of 1935 Chapter 182) made judicial elections nonpartisan for a second time, but the effect on voter participation was not so dramatic as in the one-election experiment of 1910.

Article VIII of the 1889 Constitution established a three-member Supreme Court with members elected to six-year terms.

During the first three decades of Statehood the Supreme Court remained at three Justices but the caseload required additional resources in order to keep current. The 1903 Legislature provided for the appointment by the Supreme Court of a three member Court Commission "of legal learning and personal worth" to assist the Court -- at a salary of \$4,000 a year for Commissioners. The term of office for the Court Commission was four years, during which time the Commissioners were prohibited from engaging in the practice of law. When the 1905 Legislature failed to provide an appropriation for the Commissioners' salary, they all resigned.

The 1919 Legislature increased the membership on the Supreme Court to five members.

In 1921 the Legislature approved the second Court Commission and directed the Supreme Court to appoint "from among the duly elected, qualified and acting District Judges of the State of Montana, from any of the various counties or districts three (3) of such judges to act for such period of time as may be designated in the order appointment as Commissioners of the Supreme Court".

The Supreme Court remained at five members until the 1979 Legislature authorized two additional Justice positions to assist in handling the overburdened Court calendar.



THE MONTANA SUPREME COURT

*Left to right, Justices William E. Hunt, Sr., Fred J. Weber, John C. Harrison, Chief Justice J. A. Turnage, Justices James C. Nelson, Karla M. Gray, and Terry N. Trieweler.*

## **DISTRICT COURTS**

The 1889 Constitution established eight judicial districts with one District Judge in each district elected for a four-year term. The number of judicial districts has fluctuated over the last century. The growth in the number of counties beginning in 1911 led to the creation of twenty judicial districts by 1919. The number of judicial districts shrank to 16 in 1932, expanded to 19 in 1977, 20 in 1984. During the regular legislative session in 1991, the Legislature created the 21st judicial district which became effective January 1993.

The number of District Court Judges has likewise grown since the beginning of Statehood. Starting with eight District Court Judges in 1889, the Legislature quickly added second judges in the State's two largest cities -- Helena and Butte -- in 1891. Today there are 37 District Court Judges.

## **COURTS OF LIMITED JURISDICTION**

A majority of citizens receive their first exposure to the judicial system in the Courts of Limited Jurisdiction which are the Justice of the Peace, City and Municipal Courts. The Constitution of 1889 provided for the creation of the Justice Courts, Police and Municipal Courts. The Constitution of 1972 retained the Justice of the Peace Courts as a Constitutional office and deleted any reference to Police or Municipal Courts, but allows the Legislature to create other courts such as City or Municipal courts.

Judges in the Courts of Limited Jurisdiction are elected for a four year term and are required to attend two annual training sessions supervised by the Supreme Court. Failure to attend the training sessions results in disqualification of the Judge from office.

## **CHANGES AFTER 1972**

The adoption of a new judicial article in the 1972 Constitution did not substantially change the

traditional structures of the Montana Judiciary. It did, however, make a number of modifications. For instance, terms of Supreme Court Justices were extended from six to eight years and District Court Judges terms went from four to six years. Structurally more significant, the new Constitution adopted a version of merit recruitment for judicial officers that has been described as a unique hybrid of the "Missouri Plan". While the Governor appoints judicial officers when vacancies occur, candidates can file against a judge seeking reelection or for a position that is open due to a judge not seeking reelection. After 1974, if a sitting judge is unopposed when seeking reelection, voters are given a "Yes" or "No" choice as to whether to retain the judge.

## **SUPREME COURT**

The Montana Supreme Court consists of one Chief Justice and six Justices. Each Justice is elected for an eight year term in a statewide nonpartisan election. Terms are staggered so that no more than two justice positions are scheduled for election at the same time. A Justice of the Supreme Court must be a citizen of the United States and have resided in Montana two years immediately before taking office and must have been admitted to practice law in Montana for at least five years prior to the date of appointment or election.

The Chief Justice of the Montana Supreme Court is elected to the position by the electorate in a statewide election. The Chief Justice is the administrative head of the Supreme Court, presides over Court conferences, and represents the Court at official state functions. The Chief Justice presides at all oral argument sessions of the Supreme Court. In the event of the absence of the Chief Justice, the Justice having the shortest term remaining to be served presides as Acting Chief Justice.

The Montana Supreme Court is the highest court of the State of Montana. It functions both as an appellate court, (Court of Review) and as a court of original jurisdiction. The Supreme Court has

original and concurrent jurisdiction over extraordinary writs. Trials are not held by the Supreme Court; oral arguments before the Court consist solely of legal arguments made by attorneys.

The Supreme Court's daily operations are guided by the Court's Internal Operating Rules, which are promulgated by the Court to facilitate the prompt and efficient handling of all matters before it. The Justices meet twice a week in Court conferences where matters presently pending before the Court are discussed. At its Tuesday conference, the Court considers pending petitions for original jurisdiction, motions which should be considered by the full Court, and other miscellaneous matters. At its Thursday conferences, the Court considers proposed opinions, petitions for rehearing, and appeal classifications.

Each appeal that comes before the Court is "classified" by a five Justice panel of the Court. The most common classifications of appeals are (1) full oral argument before the Court sitting en banc, or (2) submitted for decision, either to a panel of five-Justices or to the Court sitting en banc, solely on the briefs filed by the parties without oral argument. Once this classification is made, the case is assigned to a Justice for drafting an opinion. The Court attempts to render its decision within 120 days of submission.

The Supreme Court calendar is divided into "terms". Four such terms must be held each year at the seat of government, commencing on the first Tuesday of March, June, October and December. The Court generally sets an oral argument calendar for each month of the year except July and August.

The Supreme Court has broad constitutionally-based administrative authority over the Bench and Bar. The Court has supervisory control over all state courts and the responsibility to ensure the efficient and effective operation of the judicial system. The Court has general authority to adopt rules of practice and procedure (subject to disapproval by the Legislature), to maintain high standards of judicial conduct, and to regulate admission to the

practice of law and the conduct of members of the legal profession.

The Court fulfills its administrative responsibilities with the assistance of various court officers and advisory boards and commissions. These are explained in detail in another section of this report.

Current members of the Supreme Court are:

**JEAN A. TURNAGE** - Chief Justice. Born March 10, 1926 in St. Ignatius, Montana. Served in the U. S. Air Corps from 1944-1946. Received his law degree from the University of Montana in 1951. Elected County Attorney, Lake County in 1953 and was reelected to the office four times. Elected to the Montana House of Representatives in 1962 and the Montana State Senate in 1964 and served continuously until he assumed the office of Chief Justice on January 7, 1985. His wife's name is Eula Mae and they are the parents of two grown children.

**KARLA M. GRAY** - Justice. Born May 10, 1947 in Escanaba, Michigan. Received both a Bachelor's and Master's degree from Western Michigan University, and her Law Degree from Hastings College of the Law in San Francisco, California in 1976. Prior to her appointment on February 11, 1991, she worked as staff attorney and lobbyist for the Montana Power Company in Butte, Montana.

**JOHN CONWAY HARRISON** - Justice. Born April 28, 1913 in Grand Rapids, Minnesota. Came to Montana in 1928. Served in the U. S. Army from 1940 to 1946. Received his law degree from George Washington University in 1940. Served as County Attorney in Lewis and Clark County from 1954 to 1960. Elected to the Montana Supreme Court in 1960. Justice Harrison has served longer on the Supreme Court than any other Justice in Montana history. He and his wife Virginia, who died in 1984, were the parents of 3 sons and 3 daughters. He married Ethel Harrison in 1987.



**WILLIAM E. HUNT, SR.** - Justice. Born February 28, 1923 in Tacoma, Washington. Came to Montana in 1945. Received his law degree from the University of Montana in 1955. Engaged in the general practice of law and served as Deputy County Attorney in Hill County and as County Attorney in Liberty County for ten years. Director of Montana Aeronautics Commission, 1970-1975. Was the first State Workers' Compensation Judge, 1975-1981. Elected to the Montana Supreme Court 1984. His wife's name is Mary and they are the parents of five children.

**JAMES C. NELSON** - Justice. Born February 20, 1944 in Moscow, Idaho. Received B.S. Degree from University of Idaho, Moscow, Idaho in 1966. Received his J.D. from George Washington University in 1974. Nelson served as First Lieutenant in the U.S. Army from 1966-1969. Nelson worked as a financial analyst with the U.S. Securities and Exchange prior to engaging in private practice in Montana. He was in private practice and serving as Glacier County Attorney at the time of his appointment to the Supreme Court in May, 1993. His wife's name is Chari and they are the parents of two children.

**TERRY N. TRIEWELER** - Justice. Born March 21, 1948 in Dubuque, Iowa. Received both his Bachelor and law degrees from Drake University, Des Moines, Iowa. He was engaged in the private practice of law in Whitefish until 1990 at which time began responsibilities as an instructor of civil procedure at the University of Montana Law School. In 1990 he was elected to the Montana Supreme Court. His wife's name is Carol and they are the parents of three daughters.

**FRED J. WEBER** - Justice. Born October 6, 1919 in Deer Lodge, Montana. Received B.A. and J.D. degrees from the University of Montana. Served in the infantry in World War II. Engaged in the private practice of law in Havre from 1947 until his election to the Supreme Court. Elected to the Montana Supreme Court in 1980. His wife's name is Phyllis and they are the parents of one daughter and three sons.



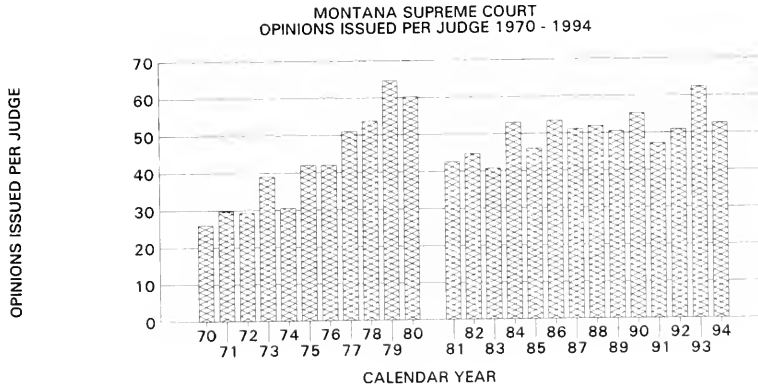
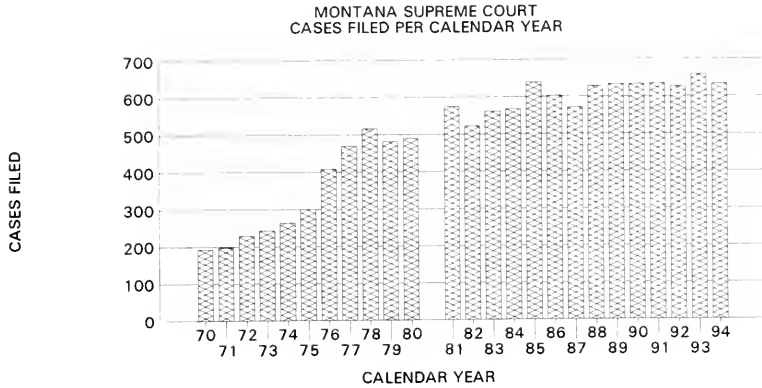
**JUSTICE JOHN CONWAY HARRISON**

*Justice Harrison retired December 30, 1994 after serving as the longest member of the Supreme Court in Montana history. Justice Harrison was elected to the Court in 1960.*

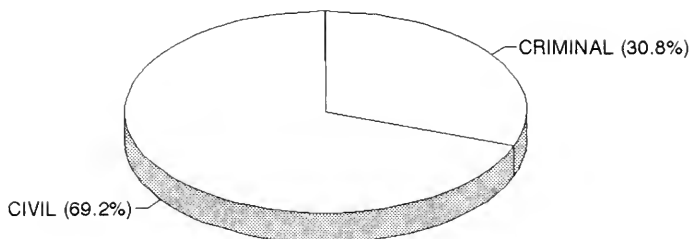
## 1994 SUPREME COURT CASELOAD STATISTICS

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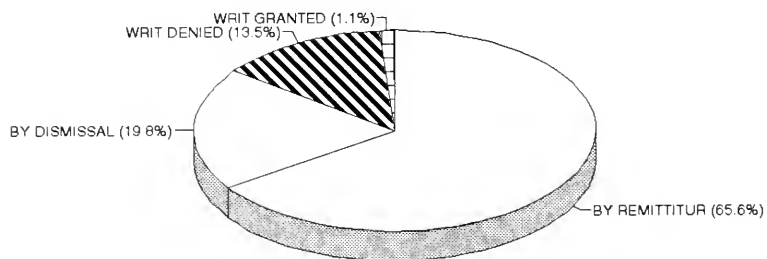
## SUPREME COURT CASELOAD STATISTICS



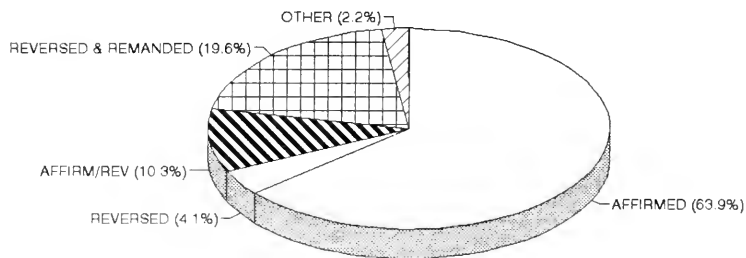
## FY 94 CASE TYPE FILINGS



## FY 94 DISPOSITIONS



## FY 94 FORMAL OPINIONS ISSUED



## DISTRICT COURTS

There is a District Court in each of Montana's fifty-six counties. District Courts are Montana's Courts of General Jurisdiction. Montana District Courts exercise original and exclusive jurisdiction over all felonies, original jurisdiction over all cases in law and equity, and the power to issue such writs as are appropriate to their jurisdiction.

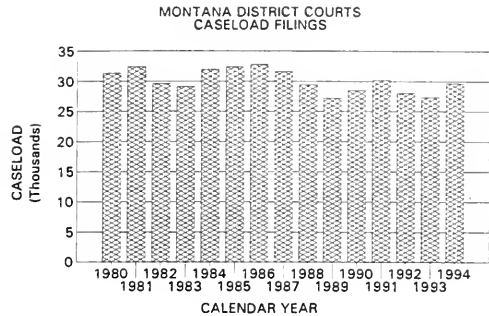
Appeals from Courts of Limited Jurisdiction to District Courts must be trials "de novo", which is a completely new trial held as if the original trial had never taken place.

District Judges are elected for six year terms. Requirements for the office of District Judge are United States citizenship, residency of the State for two years and being admitted to the practice of law in Montana for at least five years prior to the date of appointment or election. In the event of a vacancy in the office of District Judge, the Governor appoints a successor from a list of nominees submitted by the Judicial Nominations Commission. The appointed judge must run in the next general election to retain their appointment.

Article VII, Section 6, of the Montana State Constitution, grants the Legislature the authority to establish Judicial Districts and to provide for the number of Judges in each District. The Legislature may change the number and boundaries of Judicial Districts and the number of Judges in each District.

During the 1991 regular Legislative Session the Twenty-first Judicial District was created. This Judicial District consists of Ravalli County and became effective January 1, 1993.

Currently there are 37 District Court Judges in Montana's 21 Judicial Districts.



## MONTANA DISTRICT COURTS

CALENDAR YEAR	TOTAL CASES FILED
1980	31,345
1981	32,393
1982	29,589
1983	29,116
1984	31,918
1985	32,400
1986	32,785
1987	31,577
1988	29,431
1989	27,224
1990	28,451
1991	30,155
1992	28,043
1993	27,362
1994	29,655

## JUDICIAL DISTRICT REPORTS

(Where a report was submitted, the following information is in the words of the Presiding Judge).

\* \* \* \* \*

### **FIRST JUDICIAL DISTRICT**

1994

#### **COUNTIES IN THE DISTRICT:**

Lewis and Clark and Broadwater

**NO. OF JUDGES:** Three

**1990 POPULATION:** 50,566

**AREA IN SQUARE MILES:** 4,669

**DENSITY PER SQUARE MILE:**  
10.83

#### **DISTRICT JUDGES:**

The Honorable Thomas Honzel  
The Honorable Jeffrey Sherlock  
The Honorable Dorothy McCarter

#### **DISTRICT COURT CLERKS:**

Lewis and Clark Co. Nancy Sweeney  
Broadwater County Nellie B. Sayer

## FIRST JUDICIAL DISTRICT

The year 1994 proved to be another busy one for Judges Thomas C. Honzel, Dorothy McCarter, Jeffrey M. Sherlock, and staff. Judge Sherlock and Judge McCarter ran for reelection and won six-year terms. Besides their judicial duties, they all sit on committees for the Montana Judiciary. Judge Honzel is a member of the Continuing Judicial Education and Legislative Committees, Judge McCarter is a member of the Judicial Relations, Crime Victims, Lawyer Discipline and Gender Fairness Committees. Judge Sherlock is a member of the Governor's Advisory Committee on Sentencing and Corrections and Sentence Review Board.

The judges met several times with attorneys, psychologists, social workers, and staff members this year, beginning the process of implementing a domestic relation mediation program. While still in the initial stages, the idea of a mediation program has sparked substantial interest from the Helena community. Hopefully, in 1995, a mediation program will be a reality for the First Judicial District.

A major change was made in the public defender program in 1994. The program is no longer monitored by the district court but is directed by the Lewis and Clark County Commissioner's Office. The administration of the public defender program remains with Randi Hood. The other public defenders are Leo Gallagher, J. Mayo Ashley, and Jim Obie.

The first Judicial District is looking forward to 1995 and new computer technology. A CD-Rom tower will be added to the network already in place so that legal searches will be available for any office on the network. This will give the judges, their law clerks, the county attorney's office, and the clerk of court the ability to computer research the MCA's, annotations, Montana Reports, etc.

Cases filed in the 1st Judicial District in 1994:

Criminal	348	10.0%
Civil	2,385	74.0%
Dom. Rel.	31	1.0%
Adoption	53	2.0%
Sanity	49	2.0%
Juvenile	171	5.0%
Probate	194	6.0%
<b>TOTAL</b>	<b>3,231</b>	<b>100.0%</b>

#### **SECOND JUDICIAL DISTRICT**

1994

#### **COUNTIES IN THE DISTRICT:**

Silver Bow

**1990 POPULATION:** 33,737

**NO. OF JUDGES:** 2

**AREA IN SQUARE MILES:** 715

**DENSITY PER SQUARE MILE:**  
47.18

#### **DISTRICT JUDGES:**

The Honorable Mark P. Sullivan  
The Honorable James Purcell

#### **DISTRICT COURT CLERK:**

Silver Bow County Lori A. Maloney

#### **SECOND JUDICIAL DISTRICT**

The Second Judicial District is a one county, two judge Judicial District which serves approximately 33,737 people. The Judicial District is presided over by Judge Mark P. Sullivan, Department No. 2, who retires December 31, 1994 and who has served since 1980 and Judge James E. Purcell, Department No. 1, has served since 1990 and was reelected in November, 1994 to a six year term. John W. Whelan of Butte was elected to a six year term in November, 1994.

The Second Judicial District is the smallest Judicial District in area (715 square miles) but has the highest population density with 47.18 people per square mile.

Department No. 1 has implemented a Special Master Program which handles only domestic relations matters. The attorneys have responded affirmatively to the program. The Special Master's Program is handled by the judge's law clerk.

Department No. 1 also requires that a settlement conference be held in all civil matters. The Court has found that the number of cases actually tried has decreased because of the mandatory settlement conferences.

The biggest obstacle to an efficient District is that the Clerk of Court's office has not yet been computerized. This is not because the Clerk or the State's Court Administrator have not wanted to do it, but because Silver Bow County Courthouse needs an updated electrical system to handle the computers. There just isn't enough money to get this done but the Counsel of Commissioners are working on it.

Judge Purcell has been appointed by the Supreme Court of Montana to be Liaison Counsel for the Multi-District Litigation Breast Implant Cases and he will be handling all of the pre-trial procedures for such cases in the District Courts of the State of Montana.

### Cases filed in the 2nd Judicial District in 1994:

Criminal	115	11.0%
Civil	516	49.0%
Dom. Rel.	289	28.0%
Adoption	32	3.0%
Sanity	26	2.0%
Juvenile	37	4.0%
Probate	36	3.0%
<b>TOTAL</b>	<b>1,051</b>	<b>100.0%</b>

### **3RD JUDICIAL DISTRICT**

1994

### **COUNTIES IN THE DISTRICT:**

Deer Lodge, Granite and Powell

**NO. OF JUDGES:** One

**1990 POPULATION:** 19,326

**AREA IN SQUARE MILES:** 4.809

**DENSITY PER SQUARE MILE:** 4.02

### **DISTRICT JUDGE:**

The Honorable Ted L. Mizner

### **DISTRICT COURT CLERKS:**

Deer Lodge Co.	Theresa Orrino
Granite Co.	Beverly L. Kulaski
Powell Co.	Mary Ann McKee

### **THIRD JUDICIAL DISTRICT**

The Third Judicial District is comprised of Anaconda-Deer Lodge County, Powell County and Granite County. Unique to the district is the fact that the Montana State Prison and the Warm Springs State Hospital are located within this jurisdiction. Because all of the mental health commitments from across the State are reviewed in this jurisdiction, a special courtroom has been established on the grounds of the State Hospital for twice monthly court sessions. In addition, all felony crimes committed within the prison as well as most of the escapes from the prison and its numerous satellite institutions are processed in the Powell County District Court. Writs of Habeas Corpus, civil rights complaints and miscellaneous civil actions filed by prison inmates are also heard in Powell County.

There were several changes that directly affected the District in 1994. The Women's Correctional Center was moved from the campus at Warm Springs to Billings. Sweeping changes at the prison and in the correctional system in general are likely to be reviewed with the recent resignation of the Corrections Administrator, Mickey Gamble. The Powell County Court lost its colorful bailiff, Wendy Getchell, to retirement. However, the bailiff's job was combined with a part-time clerk position and Mark Woirhaye was hired to fill that new position. Also, the entire court system in Powell County was equipped with a new computer network with the help of Pat Chenovick and his staff. Welcome restoration of the Anaconda-Deer Lodge County Courthouse included new paint, lighting, carpeting and ceilings in the courtroom and in chambers. Due to lack of funding and volunteer help, our Rock Creek Youth Camp did not hold youth summer camps as it has for the last 20 years. Options are being explored for reopening Rock Creek Youth Camp next summer. Notwithstanding all the changes that occur from year to year, it is still the friendly people, beautiful scenery and cooperative lawyers that make the Third Judicial District a pleasant place to live and work.



Cases filed in the 3rd Judicial District in 1994:

Criminal	157	17.0%
Civil	309	34.0%
Dom. Rel.	75	8.0%
Adoption	15	2.0%
Sanity	108	12.0%
Juvenile	84	9.0%
Probate	159	18.0%
<b>TOTAL</b>	<b>907</b>	<b>100.0%</b>

**4TH JUDICIAL DISTRICT**  
1994

**COUNTIES IN THE DISTRICT:**

Mineral and Missoula

**NO. OF JUDGES:** Four

**1990 POPULATION:** 82,002

**AREA IN SQUARE MILES:** 3,818

**DENSITY PER SQUARE MILE:**  
21.48

**DISTRICT JUDGES:**

The Honorable John W. Larson  
The Honorable John S. Henson  
The Honorable Douglas G. Harkin  
The Honorable Ed P. McLean

**DISTRICT COURT CLERKS:**

Mineral County Cheryle Dammon  
Missoula County Kathleen Breuer

**FOURTH JUDICIAL DISTRICT**

The Fourth Judicial District serves the counties of Missoula and Mineral Counties and has four District Judges: Judges John S. Henson, John W. Larson, Douglas G. Harkin, and Ed P. McLean. Cheryle Demmon is the Clerk of Court in Mineral County where she is assisted by one deputy. Kathleen Breuer, Missoula County Clerk of Court, is assisted by twelve deputies.

The District continues to use a settlement program which requires all civil cases to participate in a supervised settlement conference before the case is set for trial. Attorneys practicing in the Fourth Judicial District act as settlement masters and approximately 75% of the cases referred to a settlement master have been settled.

The majority of domestic cases filed in Department 1 (McLean) and Department 2 (Henson) are heard by Special Master Susan Leaphart. Brenda Desmond is Research Assistant/Special Master for Department 3 (Larson). Intervention by the Special Masters has been successful in resolution of the majority of domestic cases filed in these departments.

Cases filed in the 4th Judicial District in 1994:

Criminal	519	18.0%
Civil	1,234	42.0%
Dom. Rel.	710	24.0%
Adoption	59	2.0%
Sanity	65	2.0%
Juvenile	119	4.0%
Probate	227	8.0%
<b>TOTAL</b>	<b>2,983</b>	<b>100.0%</b>

**FIFTH JUDICIAL DISTRICT**

1994

**COUNTIES IN THE DISTRICT:**

Beaverhead, Jefferson and Madison

**NO. OF JUDGES:** One**1990 POPULATION:** 22,338**AREA IN SQUARE MILES:** 10,731**DENSITY PER SQUARE MILE:**  
2.08**DISTRICT JUDGE:**

The Honorable Frank M. Davis

**DISTRICT COURT CLERKS:**

Beaverhead Co.	Sheila Brunkhorst
Jefferson Co.	Marilyn J. Stevens
Madison Co.	Jerry R. Wing

month. Law and motion is conducted in Dillon during the remainder of the month.

The Court continues its policy of making six person juries in civil cases "mandatory". With rare exception the Bar has acquiesced.

The Fifth Judicial District continues its change to a computerized law library. The district has signed on to WESTLAW and is currently installing CD-ROM drives. The Judge's offices in the three counties are connected by a remote communication package enabling the Judge and staff to work on any of the three computers. Plans to create a Fifth Judicial District BBS are underway, a completion date of July 1995 is anticipated.

**Cases filed in the 5th Judicial District in 1994:**

Criminal	99	15.0%
Civil	280	42.0%
Dom. Rel.	136	21.0%
Adoption	24	4.0%
Sanity	4	1.0%
Juvenile	19	2.0%
Probate	103	15.0%
<b>TOTAL</b>	<b>665</b>	<b>100.0%</b>

**FIFTH JUDICIAL DISTRICT**

The Fifth Judicial District comprises three large counties of Southwestern Montana. The Court sits in Dillon, the county seat of Beaverhead County, where there are twenty lawyers. Beaverhead has 42% of the caseload. Madison County and its county seat, Virginia City has two private practitioners, with 31% of the caseload. Jefferson County with Boulder as its county seat has three attorneys and 27% of the caseload. Each county has a county attorney and deputy. Law and motion calendars are conducted in Boulder on the 1st Thursday and Friday and 3rd Friday of each month, in Virginia City on the 1st and 3rd Tuesday of each

**SIXTH JUDICIAL DISTRICT**

1994

**COUNTIES IN THE DISTRICT:**

Park and Sweet Grass

**NO. OF JUDGES:** One**1990 POPULATION:** 17,609**AREA IN SQUARE MILES:** 4,466**DENSITY PER SQUARE MILE:** 3.94**DISTRICT JUDGE:**

The Honorable Byron L. Robb

**DISTRICT COURT CLERKS:**Park Co. June Little  
Sweet Grass Co. Patty Jo Henthorn

Cases filed in the 6th Judicial District in 1994:

Criminal	76	13.0%
Civil	173	31.0%
Dom. Rel.	150	27.0%
Adoption	12	2.0%
Sanity	12	2.0%
Juvenile	53	9.0%
Probate	91	16.0%
TOTAL	567	100.0%

**SEVENTH JUDICIAL DISTRICT**

1994

**COUNTIES IN THE DISTRICT:**Dawson, McCone, Prairie, Richland  
and Wibaux**NO. OF JUDGES:** Two**1990 POPULATION:** 24,964**AREA IN SQUARE MILES:** 9,676**DENSITY PER SQUARE MILE:** 2.58**DISTRICT JUDGES:**The Honorable Dale Cox  
The Honorable Richard Phillips**DISTRICT COURT CLERKS:**Dawson Co. Ardelle Adams  
McCone Co. Betty L. Robinette  
Prairie Co. Lisa Kimmet  
Richland Co. Arlene Riggs  
Wibaux Co. Roger J. Barnaby**SIXTH JUDICIAL DISTRICT**

The Sixth Judicial District is a single judge district which includes Park and Sweet Grass counties, and which has an annual caseload of about 570. Judge Byron L. Robb did not seek reelection in 1994.

One of the biggest present judicial challenge in this district and the rest of the state is handling the continuous avalanche of criminal and delinquent youth cases, and the legislative problem of where to house those persons convicted of crime and needing detention.

## SEVENTH JUDICIAL DISTRICT

The Seventh Judicial District is comprised of two departments with Judge Dale Cox who, on November 8, 1994, was reelected to another term, presiding over Department 1, Dawson, Prairie and Wibaux Counties and Judge Richard Phillips presiding over Department 2, Richland and McCone Counties.

The Courts are assisted by a staff of court reporters Ron LaPierre and Corrine Herdt and paralegal, Mitzi Barney.

In September this district began a Parent Awareness Training program for parties to a dissolution of marriage or legal separation involving minor children. The program consists of viewing a videotape addressing effective communication between parents so as to diminish the likelihood of involving children in the parties' differences and helping children cope with their own feelings about the separation of the family. Discussion periods are held during and after viewing the tape. Parent Awareness Training is held one evening per month in Richland County and one evening per month in Dawson County. We have received very favorable comments from participants.

The Youth Court developed a Montana Conservation Corp Project that created employment of sixteen juveniles for eight weeks in the summer. The youths receive minimum wage and up to \$1,000 in education stipend. Approximately 70% of the cost of the crew is funded by Montana Conservation Corp which the balance comes from local government agencies and private non-profit organizations. Besides full-time summer employment, the youths learned to work as a team, earned money for college and developed a work ethic.

Again this year we held two student government days with students from local high schools assigned to state and county officials. The students spend half a day with the Judge, Clerk of Court and Court Reporter observing and participating in court

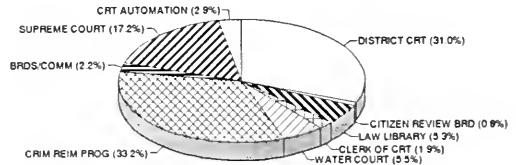
sessions. The students tell us they enjoy government day and leave with a better understanding of the judicial system.

As in previous years, the majority of the Court's time is spent on dissolution and criminal matters.

Cases filed in the 7th Judicial District in 1994:

Criminal	91	13.0%
Civil	280	36.0%
Dom. Rel.	130	17.0%
Adoption	18	2.0%
Sanity	57	7.0%
Juvenile	32	4.0%
Probate	161	21.0%
<b>TOTAL</b>	<b>769</b>	<b>100.0%</b>

## MONTANA SUPREME COURT FY 1994 BUDGET



**EIGHTH JUDICIAL DISTRICT:**  
**1994**

**COUNTIES IN THE DISTRICT:**

Cascade

**NO. OF JUDGES:** Three

**1990 POPULATION:** 77,293

**AREA IN SQUARE MILES:** 2,661

**DENSITY PER SQUARE MILE:**  
29.05

**DISTRICT JUDGES:**

The Honorable Joel G. Roth  
The Honorable John M. McCarvel  
The Honorable Thomas M. McKittrick

**DISTRICT COURT CLERK:**

Cascade Co. Nancy Morton

Margaret M. Johnson was elected on November 8, 1994 to replace Judge McCarvel. Robert P. Goff will assume Judge Roth's position after have also been elected on November 8, 1994.

On November 8, 1994 the voters of the Eighth Judicial District approved the construction of a new jail which will accommodate city, county and state prisoners. The new jail will replace the century old Cascade County Jail, which is presently being operated under a jail population cap ordered by United States District Judge Paul Hatfield.

In March of 1994, Cascade County opened a new regional youth center. The facility serves eleven counties.

The Eighth Judicial District is also upgrading its computer system. Judge McKittrick's court has the case view system in operation and it is anticipated that all courts will soon have the same capability.

The Eighth Judicial District has finished the fiscal year with a balanced budget, this is the first time in many years for Cascade County.

**Cases filed in the 8th Judicial District in 1994:**

Criminal	401	12.0%
Civil	1,436	44.0%
Dom. Rel.	694	21.0%
Adoption	146	5.0%
Sanity	20	1.0%
Juvenile	230	7.0%
Probate	323	10.0%
<b>TOTAL</b>	<b>3,250</b>	<b>100.0%</b>

**EIGHTH JUDICIAL DISTRICT**

Judges John M. McCarvel and Joel G. Roth will both retire on December 31, 1994. Judge McCarvel will have served in office for 16 years upon the date of his retirement. Judge Roth will have completed 18 years of service on December 31, 1994. Both Judge McCarvel and Judge Roth are well recognized for their devotion to their duties and will be missed by the bench and bar of the Eighth Judicial District.

**NINTH JUDICIAL DISTRICT**

1994

**COUNTIES IN THE DISTRICT:**

Glacier, Pondera, Teton and Toole

**NO. OF JUDGES:** One**1990 POPULATION:** 29,793**AREA IN SQUARE MILES:** 10,496**DENSITY PER SQUARE MILE:** 2.84**DISTRICT JUDGE:**

The Honorable Marc G. Buyske

**DISTRICT COURT CLERKS::**

Glacier Co.	Mary Phippen
Pondera Co.	Anita White Jones
Teton Co.	Emile Kimmet
Toole Co.	Penny Underdahl

**NINTH JUDICIAL DISTRICT**

The Ninth Judicial District covers Glacier, Pondera, Teton and Toole Counties. The presiding judge is the Honorable Marc G. Buyske, who was appointed to this position by Governor Marc Racicot, March 8, 1994.

The Honorable Ronald D. McPhillips retired after serving in this capacity since 1963.

**Cases filed in the 9th Judicial District in 1994:**

Criminal	119	14.0%
Civil	361	42.0%
Dom. Rel.	142	17.0%
Adoption	22	3.0%
Sanity	6	1.0%
Juvenile	53	6.0%
Probate	149	17.0%
<b>TOTAL</b>	<b>852</b>	<b>100.0%</b>

**TENTH JUDICIAL DISTRICT**

1994

**COUNTIES IN THE DISTRICT:**

Fergus, Judith Basin and Petroleum

**NO. OF JUDGES:** One**1990 POPULATION:** 14,797**AREA IN SQUARE MILES:** 7,777**DENSITY PER SQUARE MILE:** 1.90**DISTRICT JUDGE:**

The Honorable Peter L. Rapkoch

**DISTRICT COURT CLERKS:**

Fergus Co.	Greta M. Ross
Judith Basin Co.	Acelia "Ann" Leach
Petroleum Co.	Bonny L. Allen

## **TENTH JUDICIAL DISTRICT**

The Honorable Peter L. Rapkoch has three counties in his judicial district: Fergus, Judith Basin, and Petroleum. Fergus County is his busiest district, as is to be expected.

To help with the caseload, the Clerks of Court are: Fergus County, Greta Ross; Judith Basin County, Ann Leach; Petroleum County, Bonny Allen. Harry Rauch is the Court Reporter. Carolyn Thompson was Judge Rapkoch's secretary until a couple of months ago. Greta Ross, the Clerk of Court, and her Deputy, Francis Stephens have graciously and generously come to the Judge's rescue since then. Juvenile and domestic relations cases continue to be a concern, along with the criminal matters.

Cases filed in the 10th Judicial District in 1994:

Criminal	62	11.0%
Civil	212	38.0%
Dom. Rel.	100	18.0%
Adoption	16	3.0%
Sanity	5	1.0%
Juvenile	33	6.0%
Probate	133	23.0%
<b>TOTAL</b>	<b>561</b>	<b>100.0%</b>

## **ELEVENTH JUDICIAL DISTRICT** 1994

### **COUNTIES IN THE DISTRICT:**

Flathead

**NO. OF JUDGES:** Two

**1990 POPULATION:** 58,782

**AREA IN SQUARE MILES:** 5,137

**DENSITY PER SQUARE MILE:**  
11.44

### **DISTRICT JUDGES:**

The Honorable Michael H. Keedy  
The Honorable Ted O. Lympus

### **DISTRICT COURT CLERK:**

Flathead Co. Peg L. Allison

## **ELEVENTH JUDICIAL DISTRICT**

The Eleventh Judicial District (Flathead County) continues to be an extremely busy place. The Flathead is one of Montana's fastest growing areas, and the impact of that fact has not been lost upon the respective caseloads of the District's two Judges, Michael H. Keedy and Ted O. Lympus.

The Courts are assisted by respective staffs consisting of reporters Robert Nieboer and Bambi Goodman, law clerks Therese Hash and Jodie Johnson, secretaries Kathy Froystad and Kris Mann, and a fine Clerk's office headed by Peg Allison, who is completing her first year of office following longtime Clerk of Court John Van's decision to retire.

Our Youth Court, with Pat Warnecke as Chief Probation Officer, continues to be extremely busy as well.

The District Judges are to varying degrees encouraging the use of Special Masters, whenever feasible and especially in domestic relation matters in an effort to avoid otherwise often lengthy delay in final disposition. Also, and in furtherance of the same objective, the District requires a settlement conference before a matter is set for trial (whether jury or non-jury). The settlement masters are most often members of the local bar whose names are on a list of availability. The process seems to be working quite well and the local bar is most deserving of the credit.

Cases filed in the 11th Judicial District in 1994:

Criminal	302	15.0%
Civil	627	31.0%
Dom. Rel.	651	32.0%
Adoption	83	4.0%
Sanity	42	2.0%
Juvenile	112	6.0%
Probate	227	10.0%
<b>TOTAL</b>	<b>2,044</b>	<b>100.0%</b>

## **TWELFTH JUDICIAL DISTRICT** 1994

### **COUNTIES IN THE DISTRICT:**

Chouteau, Hill and Liberty

**NO. OF JUDGES:** One

**1990 POPULATION:** 25,305

**AREA IN SQUARE MILES:** 8,293

**DENSITY PER SQUARE MILE:**  
3.05

### **DISTRICT JUDGE:**

The Honorable John Warner

### **DISTRICT COURT CLERKS:**

Chouteau Co.	Louise V. Sagan
Hill Co.	Dena Tippetts
Liberty Co.	Patricia Seidlitz

## **TWELFTH JUDICIAL DISTRICT**

The Twelfth Judicial District serves Chouteau, Hill and Liberty Counties. Judge John Warner is the district's only judge. Judge Warner completed his first 6-year term during 1994 and was reelected in 1994 to serve another 6-year term. Dena Tippetts is the Clerk of Court in Hill County. She is assisted by two deputies, Ann Lamberton and Kathie Vigliotti. Louise Sagan is the Clerk of Court in Chouteau County. She is assisted by one deputy, Lois Bokovoy. Pat Seidlitz is Clerk of Court in Liberty County.

In addition to the Clerks of Court and their deputies, Judge Warner is assisted by a staff of

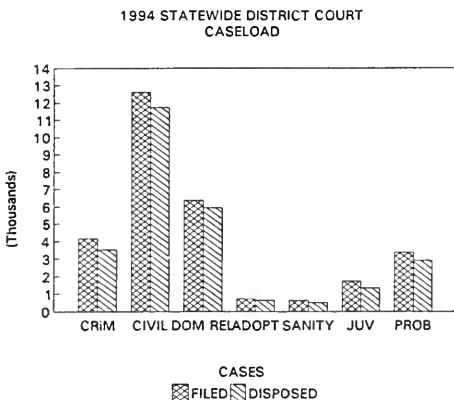


four: Tammy Langel, Administrative Assistant; Doug Christensen, Court Reporter; Robert Peake, Chief Juvenile Probation Officer; and Carl White, Law Clerk, Special Master and Deputy Juvenile Probation Officer.

Computerization of juvenile probation records has greatly improved the efficiency of the juvenile probation department has also instituted a community service program which requires young offenders to perform community service work as part of their supervision.

Cases filed in the 12th Judicial District in 1994:

Criminal	112	18.0%
Civil	218	34.0%
Dom. Rel.	137	21.0%
Adoption	11	2.0%
Sanity	6	1.0%
Juvenile	37	6.0%
Probate	119	18.0%
<b>TOTAL</b>	<b>640</b>	<b>100.0%</b>



### **THIRTEENTH JUDICIAL DISTRICT 1994**

#### **COUNTIES IN THE DISTRICT:**

Big Horn, Carbon, Stillwater and Yellowstone

**NO. OF JUDGES:** Five

**1990 POPULATION:** 137,698

**AREA IN SQUARE MILES:** 11,525

**DENSITY PER SQUARE MILE:** 11.95

#### **DISTRICT JUDGES:**

The Honorable William J. Speare  
The Honorable Robert W. Holmstrom  
The Honorable G. Todd Baugh  
The Honorable Russell K. Fillner  
The Honorable Maurice R. Colberg

#### **DISTRICT COURT CLERKS:**

Big Horn Co.	Janice Heath
Carbon Co.	Gayle M. Hilderman
Stillwater Co.	Marlene Johnson
Yellowstone Co.	Charmaine R. Fisher

### **THIRTEENTH JUDICIAL DISTRICT**

The Thirteenth Judicial District serves the counties of Big Horn, Carbon, Stillwater and Yellowstone and has five District Judges: Judges G. Todd Baugh, Maurice R. Colberg, Jr., Russell K. Fillner, Robert W. Holmstrom and William J. Speare. The clerks of court for the various counties are: Big

Horn, Janice Heath; Carbon, Gayle Strausberg; Stillwater, Marlene Johnson; Yellowstone, Charmaine Fisher.

The clerk of court in Yellowstone County is making extensive use of computers for the processing of cases. There will be some experimental use of computers in courtrooms which may be implemented in all courtrooms in Yellowstone County.

The renovations that were accomplished in 1993 including the construction of an additional courtroom and jury rooms have resolved previous problems in availability of courtrooms to judges.

All judges are headquartered in Yellowstone County. All judges handle the outlying counties and rotate on an annual basis. Concerning the outlying counties, two judges handle Big Horn County, two judges handle Carbon County and one judge handles Stillwater County. Those assignments are based on historical case loads in the outlying counties. There are normally two law and motion days each month in the outlying counties and trials are scheduled as required.

Diane G. Barz and Russell C. Fagg were elected as district judges and will replace Judge William J. Speare and Judge Russell K. Fillner, as of January 2, 1995.

Cases filed in the 13th Judicial District in 1994:

Criminal	791	14.0%
Civil	2,221	40.0%
Dom. Rel.	1,518	26.0%
Adoption	89	2.0%
Sanity	146	3.0%
Juvenile	373	7.0%
Probate	454	8.0%
<b>TOTAL</b>	<b>5,592</b>	<b>100.0%</b>

## **FOURTEENTH JUDICIAL DISTRICT**

1994

### **COUNTIES IN THE DISTRICT:**

Golden Valley, Meagher, Musselshell and Wheatland

**NO. OF JUDGES:** One

**1990 POPULATION:** 9,070

**AREA IN SQUARE MILES:** 6,837

**DENSITY PER SQUARE MILE:** 1.33

### **DISTRICT JUDGE:**

The Honorable Roy C. Rodeghiero

### **DISTRICT COURT CLERKS:**

Golden Valley Co.	Aileen Mattheis
Meagher Co.	Donna Morris
Musselshell Co.	Dona C. Robson
Wheatland Co.	Janet Hill

## **FOURTEENTH JUDICIAL DISTRICT**

The past year has been a busy time for the Court. Our Court Reporter, John LaPierre, and our part-time secretary Connie Mattfield, with all of our District Clerks and Deputies work well together in getting the job done.

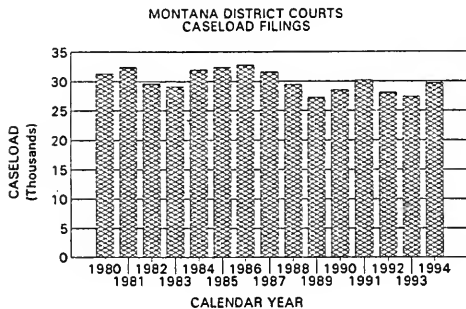
The district is approximately 200 miles east and west across the central part of Montana with an area larger than many states. The distance between the two further most county seats of Roundup and White Sulphur Springs is 130 miles. The district includes both plains and mountains in a highly

agricultural and ranch based economy in addition to oil and gas, mining, lumbering and recreation. The Musselshell and Smith Rivers flow in this district. The Snowy, Belt, Castle, Crazy and Bull Mountains are found therein.

The district is sparsely populated with quality people. Much windshield time is spent in carrying out the duties of the District Judge.

Cases filed in the 14th Judicial District in 1994:

Criminal	43	12.0%
Civil	137	38.0%
Dom. Rel.	64	18.0%
Adoption	15	4.0%
Sanity	2	1.0%
Juvenile	34	10.0%
Probate	61	17.0%
<b>TOTAL</b>	<b>356</b>	<b>100.0%</b>



## **FIFTEENTH JUDICIAL DISTRICT** 1994

### **COUNTIES IN THE DISTRICT:**

Daniels, Roosevelt and Sheridan

**NO. OF JUDGES:** One

**1990 POPULATION:** 17,916

**AREA IN SQUARE MILES:** 5,501

**DENSITY PER SQUARE MILE:** 3.26

### **DISTRICT JUDGE:**

The Honorable M. James Sorte

### **DISTRICT COURT CLERKS:**

Daniels Co.	Patricia McDonnell
Roosevelt Co.	Patricia A. Stennes
Sheridan Co.	Cheryl A. Olson

## **FIFTEENTH JUDICIAL DISTRICT**

1994 brought a change to the Fifteenth Judicial District. Judge Sorte lost his reelection bid by 24 votes. Joann Hesser and Delmar Olsen continued their fine work as Court Reporter and Juvenile Probation Officer.

On a personal note, Judge Sorte would like to take this opportunity to say that he has enjoyed his 25 years of service to the Fifteenth Judicial District and the State of Montana.

Cases filed in the 15th Judicial District in 1994:

Criminal	20	5.0%
Civil	181	45.0%
Dom. Rel.	34	8.0%
Adoption	19	5.0%
Sanity	5	1.0%
Juvenile	11	3.0%
Probate	135	33.0%
<b>TOTAL</b>	<b>405</b>	<b>100.0%</b>

**SIXTEENTH JUDICIAL DISTRICT**  
1994

**COUNTIES IN THE DISTRICT:**

Carter, Custer, Fallon, Garfield, Powder River, Rosebud and Treasure

**NO. OF JUDGES:** Two

**1990 POPULATION:** 31,502

**AREA IN SQUARE MILES:** 22,300

**DENSITY PER SQUARE MILE:** 1.41

**DISTRICT JUDGES:**

The Honorable Kenneth R. Wilson  
The Honorable Joe L. Hegel

**DISTRICT COURT CLERKS:**

Carter Co.	Carole Carey
Custer Co.	Bernice Matthews
Fallon Co.	Carol Wade
Garfield Co.	Charlotte Herbold
Powder River Co.	Arlynn Archer
Rosebud Co.	Marilyn Hollister
Treasure Co.	LaVon Adair

**SIXTEENTH JUDICIAL DISTRICT**

The Sixteenth Judicial District encompasses seven Southeastern Montana Counties: Carter, Custer, Fallon, Garfield, Powder River, Rosebud and Treasure, and some 21,815 square miles with a population of only about 36,000.

There are two Judges in the Sixteenth Judicial District, Kenneth R. Wilson in Department 1, and Joe L. Hegel in Department 2.

Both Judges were recently retained for second terms. Judge Wilson is the Chief Judge for administrative purposes and Judge Hegel is Youth Court Judge, handling all juvenile delinquency cases for the District. Judge Hegel is also the Water Court Judge for the Lower Missouri Basin.

Cases filed in the 16th Judicial District in 1994:

Criminal	135	15.0%
Civil	283	31.0%
Dom. Rel.	202	22.0%
Adoption	23	3.0%
Sanity	21	2.0%
Juvenile	67	7.0%
Probate	182	20.0%
<b>TOTAL</b>	<b>913</b>	<b>100.0%</b>

**SEVENTEENTH JUDICIAL DISTRICT**

1994

**COUNTIES IN THE DISTRICT:**

Blaine, Phillips and Valley

**NO. OF JUDGES:** One

**1990 POPULATION:** 20,066

**AREA IN SQUARE MILES:** 14,462

**DENSITY PER SQUARE MILE:** 1.39

**DISTRICT JUDGE:**

The Honorable John C. McKeon

**DISTRICT COURT CLERKS:**

Blaine Co.	Kay Johnson
Phillips Co.	Frances M. Webb
Valley Co.	Patricia A. Hill

wide and he will be missed by the bar of the Seventeenth Judicial District.

John C. McKeon, formerly a private attorney and part-time Phillips County Attorney, was appointed by Governor Racicot in January of 1994 and was elected in November, 1994 to a six-year term.

For 1993-94 fiscal year, Valley County had 42%, Phillips County had 35% and Blaine County had 23% of the case load. Law and motion calendars are conducted in Glasgow on 1st and 3rd Monday, in Chinook on 2nd and 4th Monday and in Malta on 2nd and 4th Thursday. Judge McKeon maintains his residential chambers at the Phillips County Courthouse in Malta, Montana, the geographic center of this district.

Cases filed in the 17th Judicial District in 1994:

Criminal	44	9.0%
Civil	166	38.0%
Dom. Rel.	75	17.0%
Adoption	4	1.0%
Sanity	5	1.0%
Juvenile	34	8.0%
Probate	114	26.0%

TOTAL	442	100.0%
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**SEVENTEENTH JUDICIAL DISTRICT**

The Seventeenth Judicial District serves the counties of Blaine, Phillips and Valley Counties and has one District Judge: John C. McKeon. Kay Johnson is the Clerk of Court in Blaine County where she is assisted by Gail Obie, a part-time deputy. Frances Webb is the Clerk of Court in Phillips County where she is assisted by Julie Howell. The Valley County Clerk of Court, Patricia Hill, is assisted by Marlyn Campbell, deputy.

Judge Leonard H. Langen retired on December 31, 1993, after 18 years of service as district judge for the Seventeenth Judicial District. His dedication to his duties and judicial skills were recognized state-

**EIGHTEENTH JUDICIAL DISTRICT**  
1994

**COUNTIES IN THE DISTRICT:**

Gallatin

**NO. OF JUDGES:** Two

**1990 POPULATION:** 50,310

**AREA IN SQUARE MILES:** 2,517

**DENSITY PER SQUARE MILE:**  
19.99

**DISTRICT JUDGES:**

The Honorable Thomas A. Olson  
The Honorable Larry Moran

**DISTRICT COURT CLERK:**

Gallatin Co. Lorraine Van Ausdol

**EIGHTEENTH JUDICIAL DISTRICT**

The 18th Judicial District includes all of Gallatin County and is served by two District Judges: Thomas A. Olson, Department No. 1 and Larry W. Moran, Department No. 2. Facilities for both Departments are located in the Law and Justice Center, 615 South 16th Street in Bozeman. The Law and Justice Center is currently undergoing extensive remodeling.

**Department I - The Honorable Thomas A. Olson**

To deal with the escalating number of family law cases and to offer families a less traumatic alternative, Judge Olson continues to employ a full-time family law mediator. Since this programs inception 3 1/2 years ago, 300 families have taken

advantage of the program and in excess of 85% of them resolved their dispute, in whole or in part, through mediation.

The department also utilizes mandatory settlement conferences in all, non-domestic, civil cases in which there is a jury demand.

**Department No. 2 - The Honorable Larry Moran**

The full impact of explosive growth in Gallatin County has not yet hit the Court, but there is sufficient indication to expect sizeable increases in caseload. There was a total increase of 112 cases in 1994, primarily family cases. For that reason, among others, the Court is thankful its mandatory mediation in family cases continues to improve, and result in an ever increasing disposition of cases. To further aid in case disposition, the Court has enlarged its internal settlement conference program, conducted by the Law Clerk, upon stipulation. This program, likewise shows merit in case dispositions without trial.

Judge Moran has initiated a "Court of Peer Review" for juvenile cases. The object of this program is to bring peer pressure on juveniles who commit minor offenses, by utilizing "a jury of (juvenile) peers" to recommend punishments to be applied by the Court. Hopefully, peer pressure will have a positive effect to modify unlawful behavior. This program is in its infancy, but has been well received in the community, and with the school system and other agencies working with juveniles. Full implementation of the program will take place in 1995.

**Cases filed in the 18th Judicial District in 1994:**

Criminal	232	14.0%
Civil	552	34.0%
Dom. Rel.	539	34.0%
Adoption	35	2.0%
Sanity	39	2.0%
Juvenile	60	4.0%
Probate	151	9.0%
<b>TOTAL</b>	<b>1,608</b>	<b>100.0%</b>

**NINETEENTH JUDICIAL DISTRICT**  
1994

**COUNTIES IN THE DISTRICT:**

Lincoln

**NO. OF JUDGES:** One

**1990 POPULATION:** 17,454

**AREA IN SQUARE MILES:** 3,714

**DENSITY PER SQUARE MILE:** 4.70

**DISTRICT JUDGE:**

The Honorable Robert Keller

**DISTRICT COURT CLERK:**

Lincoln Co. Lucille Briggs

A new District Judge is not the only transition for the coming year. A new County Attorney was elected. The former County Attorney who had lost in the primary by less than fifty votes conducted a "write-in" campaign. The prevail is rare and it proved once again to be unsuccessful.

The 1994 convention of the Montana Clerks of District Court was held in Lincoln County, Libby, Montana in June. The convention was a striking success and many Clerks were impressed at the beautiful surroundings of the area.

Law Clerk, Michelle Maltese, left the Court September 8th to begin practice with legal services in Billings. Her replacement, Susan Kroswek, began September 19th. Sue is originally from Manitou Beach, Michigan; received her J.D. from the University of Toledo College of Law in Toledo, Ohio and took the Montana bar exam in July.

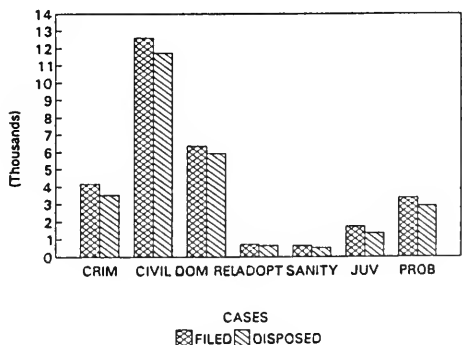
Cases filed in the 19th Judicial District in 1994:

Criminal	175	24.0%
Civil	221	30.0%
Dom. Rel.	204	28.0%
Adoption	17	2.0%
Sanity	9	1.0%
Juvenile	61	8.0%
Probate	52	7.0%
<b>TOTAL</b>	<b>739</b>	<b>100.0%</b>

**NINETEENTH JUDICIAL DISTRICT**

The Nineteenth Judicial District is a single judge district consisting of Lincoln County which covers an area consisting of 3,714 square miles and a population of approximately 17,454 residents and growing. The Judicial District is presided over by Judge Robert S. Keller. On December 12, 1994, Judge Keller announced his retirement to become effective as of December 31, 1994. For many, his announcement was totally unexpected. His dedicated years of service has been inspirational to many in the bar and will be a tough act to follow. Because Judge Keller's retirement is within a term, the district will have to wait a few months before a new appointment is announced.

**1994 STATEWIDE DISTRICT COURT CASELOAD**



**TWENTIETH JUDICIAL DISTRICT**  
1994

**COUNTIES IN THE DISTRICT:**

Lake and Sanders

**NO. OF JUDGES:** One

**1990 POPULATION:** 29,629

**AREA IN SQUARE MILES:** 4,272

**DENSITY PER SQUARE MILE:** 6.94

**DISTRICT JUDGE:**

The Honorable C. B. McNeil

**DISTRICT COURT CLERKS:**

Lake Co. Katherine E. Pedersen  
Sanders Co. Evelyn Cox

The District continues to be one of the busiest in the state with the heaviest caseload averaging over 1000 cases per year, according to last year's judicial report of the Court Administrator.

Both the civil and criminal trial calendars are current. In the ten-year history of the present 20th Judicial District, not a single criminal case has been dismissed for failure to get a speedy trial. Present requests for civil case jury trial settings can expect a setting as early as three months from the date of the request with no other cases set on that date. As of the date this report is written, there are no cases at issue pending judge decision.

Cases filed in the 20th Judicial District in 1994:

Criminal	178	17.0%
Civil	382	36.0%
Dom. Rel.	285	25.0%
Adoption	24	2.0%
Sanity	1	0.0%
Juvenile	102	9.0%
Probate	111	11.0%
<b>TOTAL</b>	<b>1,083</b>	<b>100.0%</b>

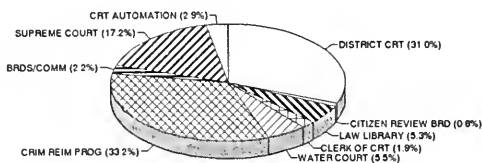
**TWENTIETH JUDICIAL DISTRICT**

The Twentieth Judicial District has just completed its tenth year of existence consisting of Lake and Sanders Counties.

Included within the District are two wilderness areas, the Flathead Indian Reservation and Flathead Lake.

The Twentieth Judicial District shares the dubious distinction with the 9th Judicial District of being the most populous in the state with nearly 30,000 residents per district judge.

**MONTANA SUPREME COURT**  
FY 1994 BUDGET





**TWENTY-FIRST JUDICIAL DISTRICT**  
1994

**COUNTY IN THE DISTRICT:**

Ravalli

**NO. OF JUDGES:** One

**1990 POPULATION:** 25,010

**AREA IN SQUARE MILES:** 2,396

**DENSITY PER SQUARE MILE:** 10.44

**DISTRICT JUDGE:**

The Honorable Jeffrey H. Langton

**DISTRICT COURT CLERK:**

Ravalli Co. Debbie Harmon

**TWENTY-FIRST JUDICIAL DISTRICT**

The 21st Judicial District is Montana's newest judicial district, having been created effective January 1, 1993, to serve Ravalli County's rapidly increasing population.

The new Ravalli County Justice Center, including a new county jail, chambers area, and remodeled space, including a refurbished courtroom, is now essentially complete and occupied.

Overall caseload figures in Ravalli County continue to increase, putting stress on all levels of the current system. The pretrial settlement master system is functioning well, resulting in a 76% settlement rate at or before the settlement conference in civil cases. This has resulted in more time to devote to the criminal caseload.

Judge Langton attended two courses at the National

Judicial College in 1994: Ethical Issues in Judicial Elections - Privacy Issues in Computerized Court Record Keeping, and Court Management, where the judge served as one of the discussion leaders.

With the cooperation and financial assistance of Ravalli County, Supreme Court Administrator Pat Chenovick, and the University of Montana Law School, the Court has been able to obtain a complete set of the Montana Reports for its exclusive use in the chamber's law library.

Judge Langton has initiated the first of a regular series of informal meetings with all Ravalli County legislative candidates prior to the general election to engage in a dialog with the candidates about special concerns pertaining to operations and funding of the judicial branch and procedural concerns which the Legislature has the power to remedy. Many of the candidates left with a better understanding of those issues and the needs of the system and have developed legislative agendas which include items brought up at the meeting.

Ravalli County's population boom continues unabated and "growth pain" related civil litigation is on the rise again as it was in the early 1980s following the late 1970s growth surge. Unfortunately population growth has not translated into robust economic growth. Ravalli County continues to have income figures below the state average. Nevertheless, Ravalli County is still a beautiful and relatively safe place to live, with a serious crime rate below statewide averages.

Cases filed in the 21st Judicial District in 1994:

Criminal	157	16.0%
Civil	407	41.0%
Dom. Rel.	212	21.0%
Adoption	27	3.0%
Sanity	5	1.0%
Juvenile	58	6.0%
Probate	121	12.0%
TOTAL	987	100.0%

## MONTANA DISTRICT JUDGES

District Court Judges serving in 1994 were:

**G. TODD BAUGH** - District Judge, 13th Judicial District. Born October 12, 1941 in Sweetwater, Texas, and came to Montana in 1967. Received B.A. in Economics and Business from Rice University and LL.B from the University of Texas. Engaged in the general practice of law. Elected to the bench in 1984. His wife's name is Linda and they are the parents of two children.

**MARC G. BUYSKE** - District Judge, 9th Judicial District. Born February 7, 1951 in Springfield, Missouri, and moved to Montana with his family in 1957. Received B.A. from the University of Montana in 1973 and J.D. from the University of Montana School of Law in 1978. In 1982 received a Master in Tax Law from the University of Denver. Engaged in the general practice of law prior to his appointment to the bench March 8, 1994. His wife's name is Jan and they are the parents of six children.

**MAURICE R. COLBERG** - District Judge, 13th Judicial District. Born December 26, 1934 in Minneapolis, Minnesota, and came to Montana in 1940. Served in the U. S. Army 1957-1958 and in the Army Reserve 1959-1965. Received a B.S. in Business Administration from the University of Montana in 1957, an LL.B from the University of Montana in 1960 and was awarded a J.D. degree from the University of Montana in 1970. Engaged in the general practice of law with emphasis on commercial litigation and served as a Trustee for Billings School District No. 2 1979-1985. Appointed to the bench November 10, 1989. His wife's name is Patricia and they are the parents of three children.

**DALE COX** - District Judge, 7th Judicial District. Born March 23, 1927 in Great Falls, Montana. Served in the U. S. Navy. Attended University of Montana, Washington University at St. Louis and received B.A. from St. Louis University and LL.B

and J.D. from the University of Montana. Engaged in the general practice of Law and served as County Attorney for Dawson County. Appointed to the bench June, 1987. His wife's name is Jackline and they are the parents of two children.

**FRANK M. DAVIS** - District Judge, 5th Judicial District. Born November 2, 1921 in Unicoi, Tennessee, and came to Montana in 1952. Attended East Tennessee State and received LL.B from the University of Tennessee. Served in the U.S. Air Force. Appointed to the bench May, 1970. Elected 1982 and 1988. His wife's name is Joan and they are the parents of five children.

**RUSSELL K. FILLNER** - District Judge, 13th Judicial District. Born April 18, 1926 in Forsyth, Montana. Served in the U. S. Army. Received LL.B and Ph.D from the University of Montana. Served as County Attorney for Rosebud County 1953-1965, City Attorney, Forsyth, Montana 1953-1965, City Councilman, City of Billings. Engaged in the general practice of law. Appointed to the bench December, 1986, elected 1988. Wife's name is Jane and they are the parents of five children.

**DOUGLAS G. HARKIN** - District Judge, 4th Judicial District. Born May 21, 1943 in Sidney, Montana. Served in the U.S. Marine Corps. Received a B.S. in Accounting and J.D. from the University of Montana. Engaged in the general practice of law and was County Attorney for Ravalli County. Elected to the bench in 1980, 1986, and 1992. Father of three children.

**JOE L. HEGEL** - District Judge, 16th Judicial District. Born April 10, 1951 in Forsyth, Montana. Served in the U.S. Army Reserve 1969-1972. Received a B.A. in Government from St. John's University in 1973. J.D. from the University of Montana in 1977, and LL.M in Taxation from Boston University in 1978. Engaged in the general practice of law with emphasis on criminal, domestic relations and firm finance. He was elected to the

bench in November 1988. His wife's name is Marielaine and they are the parents of three children.

**JOHN S. HENSON** - District Judge, 4th Judicial District. Born September 29, 1940 in Wadsworth, Ohio. Came to Montana in 1971. Received a B.S. from Arizona State University and J.D. from the University of Kentucky. Engaged in the general practice of law and natural resource law. Served as County Attorney for Mineral County. Appointed to the bench May, 1979, and has served continually since his appointment. Father of two children.

**R. W. HOLMSTROM** - District Judge, 13th Judicial District. Born March 29, 1928 in Garden City, Kansas, and moved to Montana in 1946. Served in the U.S. Navy 1945-46. Received a B.A. from the University of Montana in 1950 and a LL.B from the University of Montana in 1952. Engaged in the general practice of law with emphasis on litigation. Appointed to the bench March 16, 1984. His wife's name is Patricia and they are the parents of two children.

**THOMAS C. HONZEL** - District Judge, 1st Judicial District. Born March 1, 1945 in Spokane, Washington. Came to Montana in 1946; Served in the U.S. Army; received a B.A. in English from Carroll College and J.D. from the University of Montana School of Law. Was engaged in the general practice of law and served as Deputy County Attorney for Lewis and Clark County. Elected to the bench November 1984. Wife's name is Mary and they are the parents of three children.

**MICHAEL H. KEEDY** - District Judge, 11th Judicial District. Born April 7, 1943 in Falls City, Nebraska. Came to Montana in 1974. Attended the University of Nebraska, received a B.A. in Political Science from Earlham College and J.D. from Washington University School of Law. Served in the Montana House of Representatives 1979-1981. Elected to the bench in 1982 and 1988. Wife's name is Carol and they are the parents of two children.

**ROBERT S. KELLER** - District Judge, 19th Judicial District. Born December 5, 1927 at Bellefonte, Pennsylvania. Served in U.S. Army. Received B.A. from Penn State University and LL.B and J.D. from the University of Utah. Engaged in the general practice of law. Elected District Judge, 11th Judicial District 1968 and served until May 1976. Appointed District Judge of the 19th Judicial District April 1988. Wife's name is Susan and they are the parents of two children.

**JEFFREY H. LANGTON** - District Judge, 21st Judicial District. Born April 22, 1953 at Hamilton, Montana. Received a B.A. in History in 1975 from the University of Montana and J.D. from the University of Montana School of Law. Engaged in the general practice of law in Hamilton, Montana with emphasis in real estate, civil and criminal trials, domestic relations, and water rights. Served as Acting Justice of the Peace for Ravalli County from 1988-1992. Elected to the bench in 1992. Wife's name is Patricia L. Stanbery and they are the parents of three children.

**JOHN W. LARSON** - District Judge, 4th Judicial District. Born June 12, 1950 at Helena, Montana. Received B.A. in 1972 from Carlton College, Northfield, Minnesota and J.D. from the University of Puget Sound, School of Law, Tacoma, Washington in 1975. Engaged in general practice of law in Missoula. Served as U.S. Magistrate from 1988 to 1992, Missoula Division. Appointed to the bench March 18, 1993 by Governor Marc Racicot. Wife's name is Helena S. Maclay and they are the parents of two children.

**TED O. LYMPUS** - District Judge, 11th Judicial District. Born December 26, 1942 in Missoula, Montana. Received J.D. from the University of Montana. Engaged in the general practice of law until elected Flathead County Attorney in 1979. Appointed to the bench on April 20, 1992, by Governor Stan Stephens. Wife's name is Patsy, and they are the parents of two children.

**DOROTHY McCARTER** - District Judge, 1st Judicial District. Born February 5, 1947 in Watertown, New York. Came to Montana in 1977. Received a B.S. in Elementary Education from the University of Colorado and J.D. from the New England School of Law. Served as law clerk in the 1st Judicial District and as Assistant Attorney General. Appointed to the bench in October 1989 and is the first woman to serve as District Judge in the 1st Judicial District and the second woman to serve as District Judge in the State. Her husband's name is Mike and they are the parents of two children.

**JOHN M. McCARVEL** - District Judge, 8th Judicial District. Born June 6, 1921 in Anaconda, Montana. Served in the U.S. Navy. Received B.A. from Carroll College, attended the University of Notre Dame and received a J.D. from the University of Michigan. Engaged in the general practice of law and served as County Attorney for Deer Lodge County. President of the Montana Judges Association 1986. Appointed to the bench January, 1979 and has served continually since his appointment. Wife's name is Corintha and they are the parents of five children.

**JOHN C. McKEON** - District Judge, 17th Judicial District. Born November 1, 1950 in Havre, Montana. Received a B.A. in Political Science from Gonzaga University in Spokane, Washington and attended the University of Montana Law School in Missoula, Montana. Engaged in the general practice of law and served as the Phillips County Attorney. Appointed to the bench January 7, 1994 and elected to the bench in November, 1994. His wife's name is Teresa and they are the parents of two children.

**THOMAS McKITTRICK** - District Judge, 8th Judicial District. Born January 7, 1944 in Anaconda, Montana. Received a B.A. in Political Science from Carroll College in 1966 and studied law at Gonzaga University School of Law. Engaged in the general practice of law and served as Deputy County Attorney for Cascade County. Appointed to the bench in December, 1983. His

wife's name is Lisa and they are the parents of two children.

**ED McLEAN** - District Judge, 4th Judicial District. Born April 12, 1946 in Anaconda, Montana. Attended the University of Washington, received B.S. in Business and J.D. from the University of Montana. Chief Criminal Deputy for the Missoula County Attorney's Office. Appointed to the bench February 1989. His wife's name is Sandy and they are the parents of three children.

**C. B. McNEIL** - District Judge, 20th Judicial District. Born February 17, 1937 in Anaconda, Montana. Served as a pilot in the U.S. Army. Attended Montana School of Mines and received B.S. in Metallurgical Engineering, University of Alaska, J.D. University of Montana. Engaged in the general practice of law in Polson. Delegate, 1972 Montana Constitutional Convention. Elected to the bench 1984. His wife's name is JoAnn and they are the parents of two children.

**TED L. MIZNER** - District Judge, 3rd Judicial District. Born October 21, 1948 in Deer Lodge, Montana. Received a B.S. in Business Administration-Accounting and J.D. from the University of Montana. Engaged in the general practice of law and served as County Attorney for Powell County. Appointed to the bench June, 1987. His wife's name is Gayle and they have four children.

**LARRY MORAN** - District Judge, 18th Judicial District. Born November 4, 1932. Engaged in the general practice of law. Received his law degree from the University of Colorado and was admitted to the practice of law in Montana in 1973. Appointed to the bench in September, 1989. Wife's name is Mona and they are the parents of two children.

**THOMAS OLSON** - District Judge, 18th Judicial District. Born May 30, 1938 in Glendive, Montana. Graduated from Montana State College in General Studies in 1960, and from the University of Montana Law School in 1963. He served as a

Law Clerk for Chief Justice James T. Harrison. He was assigned as Legal Officer in the U.S. Marine Corps, attaining the rank of Captain. In 1967 he entered the private practice of law in Bozeman, and was twice elected Gallatin County Attorney. From 1975 to 1977, Olson served as United States Attorney for Montana. He was elected District Judge in 1982 and 1988. His wife's name is Ann and they are the parents of three children.

**JAMES E. PERCELL** - District Judge, 2nd Judicial District. Born December 29, 1929 in Helena, Montana. Received a B.A. in Journalism from the University of Montana in 1952. Served in the U.S. Navy from 1952 to 1954. Received an LL.B. and J.D. Degree from the University of Montana in 1958 and 1970 respectively. Engaged in general practice of law from 1958 to 1990 when he was appointed by Governor Stan Stevens to serve the unexpired term of the late Arnold Olsen. Served on the Commission on Practice for 10 years prior to his appointment to the Bench. Wife's name is Mary Dawn and they have two children.

**RICHARD G. PHILLIPS** - District Judge, 7th Judicial District. Born May 20, 1949 in Jersey City, New Jersey. Received a B.A. degree from St. Benedict's College in Atchison, Kansas in 1971 and J.D. from the University of Montana in 1976. Engaged in the general practice of law and served as City Attorney for the City of Sidney. Also served as Deputy County Attorney for Richland County prior to being elected to the bench in 1990. Wife's name is Jeannette and they are the parents of three children.

**PETER L. RAPKOCH** - District Judge, 10th Judicial District. Born September 15, 1925 in El Paso, Texas. Served in the U.S. Army 1944-1946 and in the Reserves 1949-1968. Received a B.S. degree in Political Science from Santa Clara University in 1953 and a LL.B from the University of Montana in 1957. Engaged in the general practice of law and served as Fergus County Attorney prior to being elected to the bench in 1982. Wife's name is Patricia and they are the parents of eight children.

**BYRON L. ROBB** - District Judge, 6th Judicial District. Born May 22, 1930 in Livingston, Montana. Served in the U.S. Army. Received a B.S. in Business Administration and LL.B from the University of Montana. Engaged in the general practice of law and served as County Attorney for Park County. Elected to the bench in 1982 and 1988. Wife's name is Jeannette and they are the parents of four children.

**ROY C. RODEGHIERO** - District Judge, 14th Judicial District. Born March 28, 1936 in Roundup, Montana. Received B.A. in Business Administration and J.D. from Montana State University. Engaged in the general practice of law and served as County Attorney for Musselshell County. Elected to the bench in 1982 and 1988. Wife's name is Janet and they are the parents of six children.

**JOEL G. ROTH** - District Judge, 8th Judicial District. Born June 6, 1929 in Billings, Montana. Served in the U.S. Army. Attended the University of Nebraska and received a B.A. in Business Administration and LL.B from the University of Montana. Engaged in the general practice of law, served as Deputy County Attorney for Cascade County, and with the United States Securities and Exchange Commission. Elected to the Office of Justice of the Peace in Cascade County. President of the Montana Judges Association, 1989. Elected to the bench 1976, 1982 and 1988. Widower and the father of one child.

**JEFFREY SHERLOCK** - District Judge, 1st Judicial District. Born April 3, 1950 in Great Falls, Montana. Received a B.A. and J.D. from the University of Montana. Served as City Attorney for the City of Helena and was engaged in the general practice of law. Elected to the bench November, 1988. Wife's name is Melissa and they have one child.

**M. JAMES SORTE** - District Judge, 15th Judicial District. Born February 22, 1931 in Plentywood, Montana. Served in the U.S. Air Force. Received a B.A. in Political Science and History and LL.B

from the University of Montana. Engaged in the general practice of law and served as Assistant County Attorney and Assistant Attorney General. President of the Montana Judges Association, 1981. Appointed to the bench August 1969, and has served continuously since then. His wife's name is Anne and they are the parents of one child.

**WILLIAM J. SPEARE** - District Judge, 13th Judicial District. Born February 14, 1929 in Sioux City, Iowa. Came to Montana 1929. Served in the U.S. Air Force. Attended Montana State University and received LL.B from the University of Montana. Engaged in the general practice of law. Served as County Attorney for Yellowstone County 1959-1965 and in the Montana House of Representatives 1969-1971. Appointed to the bench in October, 1979, reelected in 1982 and 1988. His wife's name is Shirley and they are the parents of three children.

**MARK P. SULLIVAN** - District Judge, 2nd Judicial District. Born February 24, 1928 in Great Falls, Montana. Received a B.A. in Business Administration from the University of Montana and J.D. from Georgetown University. Served in the U.S. Marine Corps. Engaged in the general practice of law and served as County Attorney for Silver Bow County. Appointed to the bench in October 1980 and was reelected in 1982 and in 1988. He is the father of four children.

**JOHN WARNER** - District Judge, 12th Judicial District. Born January 22, 1943 in Great Falls, Montana. Attended the College of Great Falls, received a B.A. in History and Political Science and an LL.B from the University of Montana. District Delegate, Montana Officials Association; Past President, 12th Judicial Bar Association; Past President, State Bar of Montana. Elected to the bench 1988. His wife's name is Katherine and they are the parents of six children.

**KENNETH R. WILSON** - District Judge, 16th Judicial District. Born August 6, 1933 in Townsend, Massachusetts and came to Montana in 1959. Served in the U.S. Air Force. Received a

B.A. in History from Clark University and an LL.B from Montana State University. Engaged in the general practice of law and served as Deputy County Attorney for Custer County and City Attorney for the City of Miles City. Elected to the bench in 1988. His wife's name is Joan and they are the parents of four children.

#### **RETIRED JUDGES IN 1994:**

**RONALD D. McPHILLIPS** - District Judge, 9th Judicial District. Born March 14, 1932 in Great Falls, Montana. Served in the U.S. Army 1952-1954. Received a B.S. in Business Administration, Banking and Finance from University of Montana in 1956. Attended Valpariso University Law School and received a J.D. Degree from the University of Montana in 1960. Engaged in the general practice of law and was elected Toole County Attorney in 1960. Has served as District Judge since 1963. His wife's name is Bernice and they are the parents of three children.

## **MONTANA JUDGE'S ASSOCIATION**

The Montana Judge's Association was established to promote and foster the Court system and the laws of the State of Montana; to promote and foster the continued education of judges; and to provide a forum for the exchange of ideas and information useful to judges. Membership of the Association consists of currently serving Supreme Court and District Court Judges. Retired Supreme Court and District Court Judges are included as associate members. The association meets twice each year. Members receive CLE credits for seminars presented at the meetings.

Officers of the Montana Judge's Association for the term October, 1994 through October, 1995 are:

President Douglas G. Harkin  
4th Judicial District

Vice-President Roy C. Rodeghiero  
14th Judicial District

Secretary Thomas Olson  
18th Judicial District

Treasurer John S. Hensen  
4th Judicial District

## **CLERKS OF THE DISTRICT COURT**

Clerks of the District Court maintain complete records of cases filed and proceedings conducted in the District Court within the county they represent. Minutes of daily court proceedings are maintained by the Clerk, who also keeps records of such matters as court orders and decrees, and a ledger of criminal cases. In addition, the Clerk issues marriage licenses and has administrative responsibilities in terms of jury selection, and keeps citizenship and naturalization records and many also issue passports.

Most of the Clerks of the District Courts are partisan elected county positions and serve a four year term. If a vacancy occurs in the Office of the Clerk of the District Court, the vacancy is filled by appointment of the Board of County Commissioners.

The fees collected by the Clerks of the District Court are distributed under the provisions of Section 25-1-201, MCA. On a statewide average, about fifty-one percent of these collections remain in the county while forty-nine percent are transmitted to the State Treasurer and are distributed to various accounts such as the State General Fund, Judges Retirement, Battered Spouse Program, Big Brothers and Sisters, and Child Abuse and Neglect Trust Fund. Fees collected by the Clerks of the District Court in FY 1988 were \$1,816,041, FY 1989, \$1,710,715, FY 1990, \$1,764,093, FY 1991, \$1,947,489, FY 1992, \$2,121,387, in FY 1993, \$2,342,171, and in FY 1994 \$2,519,190 in fees were collected.

## **MONTANA ASSOCIATION OF CLERKS OF THE DISTRICT COURT**

The Montana Association of Clerks of District Court convened in Lewistown, Montana, on May 14-15, 1965, for an organizational meeting. The Association has met annually since that time, and Missoula will host the 30th anniversary in June 1995.

Eight districts have been formed throughout the State of Montana to enable clerks to meet twice a year to discuss mutual problems and ideals. The Association itself meets annually, usually in the county of the president, for their annual convention. By inviting guest speakers, holding workshops, and through discussions, the clerks have worked to standardize procedures and to become informed with new laws and techniques.

In 1973, a committee compiled the first handbook for Clerks of Court. The handbook is constantly

being updated and through revisions is kept current. In 1976, the Clerks of Court began to actively work with the Court Administrator's Office.

The various committees of the association meet throughout the year to update the handbook, work on legislation as it pertains to the office, organize training sessions and works with and through the Court Administrator's Office to put on schools for the Clerks of Court.

In the fall of 1989, a program for certifying Clerks of Court was started. Over a three year period, a Clerk of the District Court gains credits toward becoming certified by attending the annual school, participating in conventions and participating in workshops.

In 1993, the Clerks appointed an Automation Committee, to work with and through the Court Administrators Office on court technology. As this is becoming the issue of Clerks statewide, we felt we should be very much involved in the formulation of that technology which we would be utilizing in the future.

It is the desire of the Montana Association of Clerks of District Court to help one another, to share knowledge and information, to constantly improve and to be better Clerks of Court in order to perform our jobs in a professional manner and to better serve the public.

Officers of the Montana Association of Clerks of District Court for 1994-95 are:

President	Kathleen D. Breuer Missoula County
1st Vice President	Ardelle Adams Dawson County
2nd Vice President	Kay O'Brien Johnson Blaine County
Secretary	Marilyn Stevens Jefferson County
Treasurer	Carole Carey Carter County



Left to right standing: Ardelle Adams, 1st Vice-President, Lucille Briggs, Immediate Past President, Kathleen D. Breuer, President. Left to right front: Kay O'Brien Johnson, 2nd Vice-President, Carole Carey, Treasurer, Marilyn Stevens, Secretary.

## STATEWIDE JUDICIAL INFORMATION SYSTEMS

Statewide Judicial Information System (SJIS) is a computerized district court case history tracking system. The SJIS was implemented in July 1976 and was the result of both legislative and judicial desires to have timely and accurate statistical information on district court operations.

1991 was the last yearly report for the Statewide Judicial Information Reporting System. Budget cuts from the 1992 Special Session forced the Office of Court Administrator to shutdown the system and revert to a monthly form from which information can be compiled and reported.



District Court cases **filed** statewide in 1994:

Criminal	4,655	14.0%
Civil	12,611	43.0%
Dom. Rel.	6,368	21.0%
Adoption	734	3.0%
Sanity	630	2.0%
Juvenile	1,761	6.0%
Probate	3,365	11.0%
<b>TOTAL</b>	<b>29,655</b>	<b>100.0%</b>

District Court cases **disposed** statewide in 1994:

Criminal	3,530	13.0%
Civil	11,709	44.0%
Dom. Rel.	5,931	22.0%
Adoption	644	3.0%
Sanity	505	2.0%
Juvenile	1,345	5.0%
Probate	2,912	11.0%
<b>TOTAL</b>	<b>26,575</b>	<b>100.0%</b>

# **DISTRICT COURT CRIMINAL REIMBURSEMENT PROGRAM AND GRANT-IN-AID PROGRAM**

The Program, enacted by SB 25 and SB 142 during the regular session of the 1985 Legislature, created an expanded state assumption of certain expenses associated with criminal proceedings in Montana's District Courts.

The District Court Criminal Reimbursement Program reimburses counties for certain adult criminal expenses. The Program, as outlined by Section 3-5-901, MCA, covers the eligible expenses in the following five categories:

- \* a percentage of Court Reporters' salaries
- \* the cost of transcripts of eligible criminal proceedings
- \* psychiatric examinations in criminal proceedings
- \* witness and jury expenses of criminal proceedings
- \* indigent defense expenses of criminal proceedings

The Program receives its revenue from a portion of the motor vehicle license tax.

In Fiscal Year 1991, the total reimbursement to counties for eligible criminal costs were \$2,526,927. In Fiscal Year 1992, the counties were reimbursed \$2,642,495, this amount was ninety-eight percent of the total requested eligible criminal costs making Fiscal Year 1992 the first year since the Program began, that one hundred percent of eligible requested reimbursements were unable to be reimbursed. In Fiscal Year 1993, \$2,936,973 was reimbursed to the counties, representing one-hundred percent of the total requested eligible criminal costs. In Fiscal Year 1994, \$2,311,931 was reimbursed to the counties, representing one-hundred percent of the total requested eligible criminal costs.

If, after all county reimbursements are made, there is a balance remaining then the balance must be awarded to counties in the form of a grant. The grant is based on whether the county has expended funds over and above their maximum mill levy set by law for district court expenses. In Fiscal Year 1992, there were no grants awarded because the appropriation authority for the Program was fully expended on criminal reimbursements.

In Fiscal Year 1993 a balance remained from the Criminal Reimbursement Program of \$204,904. Counties requested \$1,612,739 in eligible expenditures. In Fiscal Year 1994, a balance remains from the Reimbursement Program. The grant amount will not be paid to counties until the Court Unification and Finance Committee has completed its study. Any funds remaining from this study will revert to grant money for the counties.

DISTRICT COURT CRIMINAL REIMBURSEMENT PROGRAM  
TOTAL REIMBURSEMENT BY CATEGORY -- FY 94

COUNTY	COURT REPORTER	JURY SERVICES	PROSECUTOR'S SERVICES	PSYCHIATRIC EXAMINATIONS	INDIGENT DEFENSE	TOTAL REIMBURSED TO DATE BY ACTIVITY 100%
ANACONDA-DEER LODGE	3,132.36	365.23			20,248.08	23,745.67
BEAVERHEAD	3,154.96	2,166.12	997.44	1,000.00	7,121.30	14,439.82
BIG HORN	1,500.00	2,251.76	343.36	1,652.00	23,101.67	28,848.79
BLAINE	1,696.50	2,042.72	283.71		14,397.11	18,420.04
BROADWATER	2,622.80	1,130.29	4,964.62	480.00	21,385.54	30,583.25
BUTTE-SILVER BOW	9,324.96	3,571.75	816.00	10,366.06	44,914.50	68,995.27
CARBON	1,500.00	1,458.50	16.00		3,065.08	6,039.58
CARTER	318.94				4,708.20	5,027.14
CASCADE	23,817.04	19,229.13	6,062.44	11,175.08	144,289.30	204,572.99
CHOUTEAU	1,153.80			5,932.00	5,515.83	12,601.63
CUSTER	7,269.48	977.55	3,458.41	1,780.00	39,487.55	52,972.99
DANIELS	175.63					175.63
DAWSON	4,869.18		138.16	1,464.00	22,727.07	29,198.41
FALLON	913.20			420.00	4,979.92	6,313.12
FERGUS	5,468.00	1,724.29	265.60	800.00	34,936.87	43,194.76
FLATHEAD	16,793.91	9,902.47	8,863.02	26,303.26	95,237.85	157,100.51
GALLATIN	15,055.23	21,555.45	12,234.44	5,256.00	100,270.23	154,371.35
GARFIELD	538.74	2,525.07	924.02	252.00	603.77	4,843.60
GLACIER	2,865.59	38.24	1,175.61		20,165.55	24,244.99
GOLDEN VALLEY	346.92			640.00	7,134.83	8,121.75
GRANITE	716.02				2,320.99	3,037.01
HILL	6,665.68	5,581.03	12,831.98	4,560.00	80,926.65	110,565.34
JEFFERSON	2,389.44	1,127.64	667.72	3,674.00	17,137.96	24,996.76
JUDITH BASIN	907.39		67.58	180.00	11,133.22	12,288.19
LAKE	5,821.20	4,495.84	1,778.59	2,092.00	40,172.94	54,360.57
LEWIS AND CLARK	8,725.82	7,916.92	561.90	7,618.94	55,678.33	80,501.91
LIBERTY	461.04				1,232.09	1,693.13
LINCOLN	10,080.00	3,103.49	2,902.19	23,066.73	123,534.61	162,687.02
MADISON	2,132.52				2,880.03	5,012.55
McCONE	891.42				1,459.76	2,351.18
MEAGHER	605.24	1,485.40	621.17	1,044.88	13,185.60	16,942.29
MINERAL	870.60			2,641.60	1,610.99	5,123.19
MISSEOLA	33,694.01	12,172.75	4,520.11	26,416.20	176,731.35	253,534.42
MUSSELSHELL	2,199.48	1,742.45	150.14	1,201.20	23,508.66	28,801.93
PARK	4,987.20	3,957.76	1,851.44	9,978.06	12,287.89	33,062.35
PETROLEUM	312.00				643.32	955.32
PHILLIPS	2,518.64	1,035.78	56.00	170.00	8,377.38	12,157.80
PONDERA	1,362.96	1,130.45	1,404.14		10,628.65	14,526.20
POWDER RIVER	695.22	85.98		234.43	644.92	1,660.55
POWELL	6,317.36				13,084.32	19,401.68
PRAIRIE	497.96					497.96
RAVALLI	6,352.88	9,687.14	16,929.20	26,519.50	70,841.98	130,330.70
RICHLAND	6,347.24	2,726.56	1,251.06	652.00	27,021.90	37,998.76
ROOSEVELT	797.34				61.60	858.94
ROSEBUD	3,255.88	409.79	24.35		13,564.32	17,254.34
SANDERS	2,160.00	3,397.60	2,843.24	3,152.00	15,276.96	26,829.80
SHERIDAN	515.04				(515.04)	0.00
STILLWATER	900.00			874.00	2,282.83	4,056.83
SWEET GRASS	971.16				6,846.93	7,818.09
TETON	1,166.05	1,728.54	776.34		1,120.50	4,791.43
TOOLE	1,805.40	2,888.97	34.75		15,478.17	20,207.29
TREASURE	191.02					191.02
VALLEY	2,482.05		193.11	1,480.00	16,904.90	21,060.06
WHEATLAND	705.96				9,991.57	10,697.53
WIBAUX	245.96		89.47		196.48	531.91
YELLOWSTONE	26,143.20	13,796.02	4,021.23	13,896.00	233,478.74	291,335.19
GRAND TOTALS:	\$249,407.62	\$147,408.68	\$94,118.54	\$196,973.94	\$1,624,021.75	\$2,311,930.53
% OF TOTAL REIMBURSED:	10.79%	6.38%	4.07%	8.52%	70.25%	100.00%

## **COURTS OF LIMITED JURISDICTION**

Montana's Courts of Limited Jurisdiction are by far the busiest Courts in the State. The courts reported handling an estimated 325,000 cases for Fiscal Year 1994. While the courts collected over \$12.2 million in revenue, an additional \$2.5 million is still owing in uncollected revenue for Fiscal Year 1994.

## **JUSTICE COURTS**

Justice of the Peace Courts are Montana's major Courts of Limited Jurisdiction. Their original jurisdiction presently includes most civil cases where a recovery will not exceed \$5,000; all misdemeanors punishable by a fine not exceeding \$500 or imprisonment not exceeding one year, including all traffic cases; or concurrent jurisdiction with the District Courts of all misdemeanors punishable by a fine exceeding \$500 or imprisonment exceeding 6 months or both such fine and imprisonment. These Courts also exercise concurrent jurisdiction with the District Court in actions of forcible entry, unlawful detainer, and residential landlord-tenant disputes. They do not have jurisdiction over felonies except for initial appearances and preliminary hearings.

By law, there must be at least one Justice of the Peace Court in each of Montana's 56 counties, which must be located at the County Seat. A Justice of the Peace may be appointed by a City or Town Council to serve as City Judge. Montana has a total of 166 Limited Jurisdiction Courts. There are 120 Limited Court Judges. At present there are 74 Justices of the Peace (46 also serve as City Judge).

Justices of the Peace are elected on a nonpartisan ballot for a four year term. Requirements for the Office of Justice of the Peace include United States citizenship and residency in the County where the Court is held for one year. Each elected or appointed Justice of the Peace is required to attend two annual training sessions supervised by the Supreme Court. Failure to attend the training sessions disqualifies the Justice of the Peace from

office and creates a vacancy in that office. Since 1985 Justices of the Peace are also required to obtain a Certificate of Completion for a course of education and training prescribed by the Commission on Courts of Limited Jurisdiction. When a vacancy occurs in the office of Justice of the Peace, a successor is appointed by the Board of County Commissioners.

## **CITY COURTS**

Montana law allows the creation of City Courts. These courts have concurrent jurisdiction with Justice Courts for all misdemeanors punishable by a fine not exceeding \$500 nor exceeding one year imprisonment. City Courts exercise exclusive jurisdiction over municipal ordinances. In a town or third class city, the governing body may designate a Justice Court of the County to act as City Court.

City Judges are elected on a nonpartisan ballot for a four year term and must have the same qualifications as those required of a Justice of the Peace. Like Justices of the Peace and Municipal Judges, City Judges are required to attend two annual training sessions supervised by the Supreme Court. Failure to attend the training sessions disqualifies the Judge and creates a vacancy in the office. City Judges are also required to obtain a Certificate of Completion for a course of education and training prescribed by the Commission on Courts of Limited Jurisdiction. When a vacancy occurs in the office of City Judge the position is filled by the governing body of the City or Town.

## **MUNICIPAL COURT**

Montana law allows for the creation of a Municipal Court for those cities that have a population of 10,000 or more. A Municipal Court may be established by City ordinance passed by a two-thirds vote of the governing body. In cities where a Municipal Court is established the office of City Judge is abolished. Presently, Missoula has the only Municipal Court in Montana.

While a Municipal Court Judge must have the same qualifications as a District Court Judge, they have the same jurisdiction as a Justice of the Peace. A Municipal Court Judge is elected for a four year term on a nonpartisan ballot. Training requirements for a Municipal Judge are identical to those for City Judges and Justices of the Peace. A vacancy in the Office of Municipal Judge is filled by appointment by the governing body of the City.

## **SPECIAL JURISDICTION COURTS**

### **WATER COURT**

Montana's Water Court was created by the 1979 Legislative Session in response to concerns that the existing program of water adjudication, which was set up under the 1973 Water Use Act, would take one hundred years to complete. The Legislature created the Water Court to "expedite and facilitate" the adjudication of existing water rights - those rights that were in existence prior to 1973. The Water Court has exclusive jurisdiction to interpret and determine existing water rights.

There are four water divisions in the State that are formed by the natural divides between drainage and the border of the State. The four major water divisions in Montana are the Yellowstone River Basin, the Lower Missouri River Basin, and the Upper Missouri River Basin and the Clark Fork River Basin.

The Chief Water Judge is appointed by the Chief Justice of the Supreme Court from a list of nominees submitted by the Judicial Nominations Commission, and serves a four year term. Water Judges are designated for each water division by a majority vote of a committee composed of the District Judge from each single judge judicial district, and the Chief District Judge from each multiple judge judicial district.

Six Water Masters and three Clerks are employed by the Water Court. The Water Judges and Masters conduct hearings and make decisions

concerning any objections made to a temporary preliminary or preliminary decree of water rights. The Clerk of the Water Court and her deputies function in a manner similar to the Clerk of the District Court.

Funding for Water Court is derived from various special revenue sources which include coal tax money, resource indemnity trust money and various other sources of bond and income revenues.

The work of the Water Court was slowed by litigation concerning the Court's role in its adjudication of the State's pre-1973 water. However, out of the 85 basins within the State of Montana, 6 basins have final decrees, 6 basins have preliminary decrees and 35 basins have temporary preliminary decrees. The 1989 Legislature required the Water Court to reopen and review all preliminary or final decrees, including the Powder River Basin.

The adjudication of federal reserved water rights is suspended until 1999 while the State of Montana and the federal and tribal authorities negotiate a compact regarding federal reserved water rights. The State of Montana and the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation entered into a Compact in 1985 and the State of Montana and the Northern Cheyenne Tribe of the Northern Cheyenne Reservation entered into a Compact in 1991. The State of Montana and the United States of America, National Park Service, entered into a Compact in 1993. These Compacts quantified the reserved water rights of the tribes and certain National Park Service lands and were approved by the Montana Legislature.

The total number of claims decreed is 101,454 out of a total of 216,483 in the entire State leaving 115,029 claims yet to be adjudicated. The Northern Cheyenne Compact Decree, the Fort Peck Compact Decree and the Southend Subbasin (76HB) Bitterroot River Temporary Preliminary Decree were issued in 1994. The Court is continuing to hear cases in the basins that have already been decreed.

## **WORKERS' COMPENSATION COURT**

The 44th Legislative Assembly created the Office of the Workers' Compensation Court on July 1, 1975 to adjudicate disputes arising out of the workers' compensation and occupational disease benefit programs. The Workers' Compensation Court has exclusive jurisdiction to make original determinations in disputes involving payment of workers' compensation benefits under Title 39, Chapter 71 and to judicially review administrative agency decisions made under Title 39, Chapters 71 and 72.

To accomplish legislative intent, the Office of the Workers' Compensation Judge is organized and functions in much the same manner as a district court, except that it follows the appropriate provisions of the Montana Administrative Procedures Act. Legislative changes in 1987 provide that statutory and common law rules of evidence apply.

The Workers' Compensation Judge is appointed by the Governor from a list of nominees submitted by the Judicial Nomination Commission, and serves a six year term. The Workers' Compensation Judge must have the same qualifications necessary to hold the office of District Court Judge. Effective January 1, 1990, the Office of the Workers' Compensation Judge is assigned to the Department of Labor and Industry for administrative purposes only.

## **ADMINISTRATION OF THE JUDICIAL SYSTEM**

The Constitution of the State of Montana charges the Supreme Court with the ultimate responsibility for the efficient and effective operation of the judicial system. The Constitution gives the Supreme Court "general supervisory control over all other courts" and allows the Supreme Court to make rules governing appellate procedure, practice and procedure for all other courts and to regulate

admission to the bar and conduct of attorneys.

To assist the Court in fulfilling its administrative and supervisory duties, the Supreme Court relies on presiding District Court Judges, the Office of Court Administrator, the Clerk of the Supreme Court, and various boards and commissions. The activities of these offices and boards and commissions during calendar year 1994 are highlighted below.

## **OFFICE OF THE COURT ADMINISTRATOR**

In October 1975, The Supreme Court established the Office of Court Administrator to assist the Court with its administrative duties. The Legislature made the office statutory in 1977 (3-1-701). The Court Administrator is appointed by the Supreme Court and holds the position at the pleasure of the Court.

The Office of the Court Administrator assists the Supreme Court in preparing and presenting judicial budget proposals to the Legislature, monitoring and managing the judicial budget, coordinating judicial education services, and providing central staff services to the court, various boards and commissions, Law Library, to District Courts, and the Water Court.

The Office of the Court Administrator is also assisting District and Limited Jurisdiction Courts with automation projects. In 1991 the Office administered a program of grants to 26 courts that provided hardware and software for various elements of court business. In 1992 the Office installed and trained approximately 300 users in office automation, this automation included word processing, as well as, court case management system developed during 1991 and 1992. In 1993 and 1994 the administrators office continued to expand automation, and improved support to existing sites.

The District Court Criminal Reimbursement and Grant-in-Aid Program in 1994 was able to reimburse 100 percent of the requested claims for

criminal reimbursement. The Office established procedures to make more timely the year-end distribution and grant payments. During the Legislative Special Session of July 1992, the program was changed to pay for criminal psychiatric examinations previously paid by the Department of Institutions. This is an increase cost to this program. The amount not covered will need to be covered by the local county.

The Court Administrator's Office coordinated in 1994 two District Court conferences and participated in the annual Five State Judicial conference held in Sun Valley, Idaho for the states of Idaho, Montana, North and South Dakota, and Wyoming. In 1996 the Montana Judiciary will be the host state for this five state conference.

The Office also coordinated two Courts of Limited Jurisdiction conferences. In accordance with statute, the judges of limited courts were certified to sit on the bench during the fall 1994 court conference. A total of 48 hours of State Bar certified continuing legal education instruction was given at these two conferences.

A unique educational program was also coordinated by the Administrator's Office. This program, "The Montana Judicial Institute", offered justices of the peace and city judges an intensive two week education at the Montana Law School. The program bestowed to each judge completing the course and obtaining a passing score on all testing, Montana University credit. This unique opportunity was funded by a grant from the State Justice Institute. The outstanding education received by the 30 judges attending will increase their abilities on the bench. It is hoped that the Institute can continue for the next year and beyond.

## JUDICIAL AUTOMATION

The Office of the Court Administrator currently supports over 400 users on 18 local area networks and numerous standalone workstations in 31 counties. The OAC has established closer working

relationships with court clerks and judges to allow MJCMS product migration. The majority of these systems conform to the Montana Supreme Court Order which mandated standards for all court automation. This standards effort has enhanced the procurement, installation and support of these systems. Close working relationships have been developed and maintained with local elected officials in the funding and acquisition of these systems.

Except in jurisdictions where local technical expertise exists, Court Services technical support personnel plan, propose, order, configure, ship and install all hardware, software and network components. Training is provided at installation, with follow-up sessions as required. Word processing, spreadsheet, productivity tools, data security, data backup/recovery and virus protection are provided. Standard court documents are provided for immediate use. Other documents are designed as needed.

In 1994 the OAC forged a partnership with Montana State University, Local Government Center. The partnership allowed the OAC to automate limited courts using University expertise and University facilities for development, training, installation, and ongoing hotline help. The number of limited courts using the LJCMS product will reach 20 by the end of the fiscal year.

In early 1995 the OAC will be installing an enhanced version of the Montana Judicial Case Management System (MJCMS) in courts that currently are automated. The enhanced version will allow the tracking of all case types, receipting of fees collected, distribution of fees, increased reporting of entered data, and tools to enhance district judges management of caseloads.

Future goals for the Automation Program are a continued growth in the level of automation within Montana's court system to address growing workloads and continued restrictive budgets. The courts adoption of automation standards will minimize system incompatibilities and reduce

technical support requirements and cost. Expansion of the current user base is expected to continue, both in networked workstations and standalone units. Expanded use of telecommunications products for remote technical support will reduce travel requirements for technical personnel and enhance system reliability. Opportunities to exploit statewide resources such as the State Data Network will be pursued where funding is available from local or state sources. New technology will be researched, such as Imaging Technology and bar coding, to develop applicable use in the court system.

### **Foster Care Citizens' Review Panel - Pilot Program**

The 1993 regular Legislative Session, under a bill sponsored by Senator Judy Jacobson, enacted SB 271, to place a new program with the Court Administrator's Office. This program would start citizen staffed and trained local review panels to review foster care placements in pilot sites around the State of Montana.

Patterned after successful programs in Oregon and 21 other states, the Act created a system of citizen review boards which act under the administration of the courts. The boards review the case of each child placed in out-of-home care every six months. A Citizen Review Board is composed of four to five members who review a varied number of cases each month. The purpose of the review is to ensure that the plan leads to a safe, permanent home for each child; includes appropriate services to meet the needs of the child and the family; is implemented in a timely fashion; and complies with all laws related to children. The board sends recommendations regarding cases reviewed to the Juvenile Court and the Department of Family Services. This operates as a check and balance on the placement of children by DFS, and as an avenue for advocacy for children in foster care and for the foster care system.

The Citizen Review Board Pilot Program was first implemented in the Fourth Judicial District, in Missoula. Fifteen Citizen Review Board volunteers

were selected by Judges McLean, Harkin, Henson, and Larson, to serve on three review boards. Each board will meet one day per month to review the cases of children in foster care. The reviews conducted by the Citizen Review Boards will be in lieu of the reviews conducted by the Foster Care Review Committees under Section 41-3-115. The first training session for board members was held in November, 1994. The first reviews were held in December, 1994. The Board reviewed 18 cases in December, 1994, 2 cases were continued, 9 cases had no substantial change, 7 cases recommended significant action be taken by the Department of Family Services.

### **CLERK OF THE SUPREME COURT**

The Clerk of the Supreme Court is a sworn public servant, who, historically by statutory authority controls the filings and provides the public with access to the Supreme Court. The Clerk also serves as the custodian of all legal records and documents for the Court and the public. The Clerk of the Supreme Court transacts all of the business for the Court, making the office the structural hub around which the judicial process revolves. Since 1865, when the clerk of the supreme court position was established in this state, the office has served as the direct link between the public and the Supreme Court. The Clerk ultimately controls the flow of information to and from the Court while assisting the Court, the legal community and the public in processing appeals and original proceedings from the early filing stages through final disposition. The Clerk is elected on a partisan ballot in a statewide election to a six-year term. The current Clerk of the Supreme Court is Ed Smith of Helena.

In calendar year 1994, the Clerk's Office docketed 633 cases. This caseload comprised a total of 438 civil cases and 195 criminal case filings. During the fiscal year 1994, the office collected \$164,614 in fees and tax revenues for the state. This amount was comprised of \$28,680 in Court fees, bar administration and examination fees of \$55,834, and

\$80,100 in attorney license taxes. By contrast, the Clerk's office spent a total of \$179,242 in total expenditures for fiscal year 1994.

The Clerk manages a staff of three individuals, consisting of one deputy clerk and two assistant clerks. The office has remained the same size since 1979 and has continued to manage an increasing caseload under a very tight budget.

Primary responsibilities of the Office of the Clerk are specified in the Montana statutes, and consist of processing all documents relative to Supreme Court appeals and petitions for the various writs, including writs of supervisory control, habeas corpus and mandamus, which are filed with the Court. The office also provides the Court with a weekly status report of pending cases.

Additional duties include bar administration and attorney additions, the preparation of minutes of all oral arguments, collecting the annual attorney license tax for more than 3,200 attorneys, and maintaining the roll of Montana attorneys. Certificates of Good Standing and Certificates of Admission are issued by the Clerk, who also has an integral role in the bar admission process.

The office of the Clerk utilizes an automated docketing system using personal computers with a unique word processing program. The Clerk is presently working on updating the automated docketing system to allow for tracking of important Supreme Court statistics, as well as providing the judicial personnel and the public with a more efficient way of following the appellate process. In addition to an automated docketing program, the office also utilizes an automated system for processing attorney license taxes and maintaining a roll of current attorneys.

## STATE LAW LIBRARY

The State Law Library serves the legal and law related information needs of Montana's courts, legislature, state officers and employees, members

of the bar, and members of the general public. The Library is committed to improving the quality and scope of its services which avoiding unnecessary expense or bureaucracy. Providing service to enhance the research capabilities of the Law Library's customers drives each decision the Library's Trustees and Director make. We cooperate with a large community drawn from state government, Montana's academic, public, school, and special libraries, and the State Bar to enhance knowledge of the law and to facilitate access to the justice system.

During 1994 the Law Library experienced an unprecedented growth in the demand for resources and services. Circulation of the Library's collection rose 63% within 12 months. 22,000 people visited the library, and even more phoned in with requests. The number of books that were reshled increased 34% during the same time period, and the number of copy requests rose by 17%. The staff also spent 17% more time working to get overdue materials returned for the use of other customers. These statistics clearly indicate that the time for an integrated automation system for the Law Library has come. The ability to link the various library functions to each other is imperative.

During the past year the Director of the Law Library has worked with other librarians around the state to ensure that the various information centers have systems which can communicate with each other. The information explosion of the past few years has made it obvious that no one library can, or should, attempt to have all materials that could be relevant for the library's customer base. Resource sharing and cooperative collection development are made possible by taking advantage of electronic information products, such as online databases, networked CD-ROM's which may be accessed from anywhere in the state, and the Internet. The Law Library's staff is excited about the challenges and possibilities for further extending legal resources throughout Montana by harnessing the power of the Information Superhighway.



## **ADVISORY BOARDS AND COMMISSIONS OF THE SUPREME COURT OF MONTANA**

The Supreme Court utilizes the services of several boards and commissions in order to discharge its general administrative and supervisory responsibilities delegated by the Constitution. The various boards and commissions are charged by the Court to address specific issues or areas of expertise and to report problems and recommendations to the Supreme Court.

The activities of the advisory boards and commissions during the 1994 are summarized below.

### **JUDICIAL NOMINATION COMMISSION**

The Judicial Nomination Commission, created under 3-1-1001, MCA, is charged with the responsibility of providing the Governor with a list of candidates for appointment to fill any vacancy on the Supreme Court, District Court, or Workers Compensation Court, and to provide the Chief Justice of the Supreme Court with a list of candidates for appointment to fill any term or vacancy for the Chief Water Judge. The Commission is composed of seven members: four lay members from different geographical areas of the state who are appointed by the Governor; two attorneys, one from each congressional district, appointed by the Supreme Court; and one District Judge who is elected by District Judges from around the state. Commission members serve a four year term and are not eligible for nomination to a judicial office during their term on the Commission or for one year thereafter.

When a vacancy occurs on the Supreme Court or in a District Court, the Commission is required to meet and within 30 days after the vacancy has been verified by the Chief Justice, and submit to the Governor a list of not less than three (nor more than five) nominees for appointment. The same process is true for a vacancy in the Office of Chief Water Judge, except that the nominees are made to

the Chief Justice for eventual appointment. The Governor and Chief Justice are limited to making appointments from the list of nominees submitted by the Judicial Nominations Commission.

If the Governor fails to nominate within 30 days after receipt of a list of nominees, the Chief Justice (or acting Chief Justice) makes the nomination.

The Commission meets as necessary when a vacancy occurs or a term expires. The Commission met once in calendar year 1986, four times in calendar year 1987 and twice in calendar year 1988. In 1989 the Commission met a total of six times, once to nominate to fill a vacancy on the Supreme Court (Gulbrandson/Barz) four times to nominate to fill vacancies on the District Court (Wheelis/McLean; Gary/Moran; Loble/McCarter and Barz/Colberg) and once to nominate for the position of Chief Water Judge. W.W. Lesley was appointed to a second term. In 1990 the Commission met twice, once to nominate to fill a vacancy as Chief Water Judge (Lesley/Loble) and once to nominate to fill a vacancy on the District Court (Olsen/Purcell). In calendar year 1991 the Nomination Commission met once to fill a Supreme Court vacancy (Barz/Gray). The Nomination Commission met once in calendar year 1992 to nominate to fill a vacancy on the District Court (Erickson/Lympus).

The Judicial Nomination Commission met five times in calendar year 1993. Once to nominate to fill a vacancy on the Supreme Court (McDonough/Nelson), once to nominate to fill the vacancy of Workers' Compensation Judge (Reardon/McCarter), twice to nominate to fill vacancies on the District Court (Green/Larson; and (Langen/McKeon). And, the Commission met once to nominate for the position of Chief Water Judge. C. Bruce Loble was appointed to a second term.

The Judicial Nomination Commission met one time in calendar year 1994 to nominate to fill a vacancy in the District Court of the 9th Judicial District (McPhillips/Buyske).

## **SENTENCE REVIEW BOARD**

Anyone sentenced to a year or more in the Montana State Prison may request judicial review of the sentence. Applications for sentence review must be made within sixty days from the date the sentence was imposed.

The Sentence Review Division of the Supreme Court consist of three District Court Judges appointed by the Chief Justice for three-year terms. The Chief Justice designates one of the Judges as chairman.

The Sentence Review Board meets at least four times each year in the Administrative Building at the State Prison in Deer Lodge, Montana. (MCA, 46-18-901). The Board also meets twice a year at the Womens Correctional System in Billings, Montana.

The workload of the Sentence Review Board has increased steadily in the past few years. One-hundred and one applications were filed with the Board in 1985, 128 in 1986, 140 in 1987, 159 applications in 1988, 148 in 1989, 162 in 1990, and 149 in 1991, and 180 in 1992, and in 1993 the Board reviewed 130 cases.

In 1994 the Board reviewed 116 cases: 85 cases were affirmed; 11 cases were amended reductions; 1 was an amended increase; 4 were continued; 2 case were stayed pending completion of Swan River Boot Camp; 2 were remanded back to district court for clarification; 5 were dismissed without prejudice; 2 were dismissed with prejudice; 4 withdrew their petitions.

## **COMMISSION ON UNAUTHORIZED PRACTICE**

The investigation of complaints alleging that a person is practicing law without having been admitted to the bar is the responsibility of the Commission on Unauthorized Practice. The Commission was created by the Supreme Court on

June 30, 1976. Investigations of unauthorized practice originally had been the responsibility of the Commission on Practice.

The Commission on Unauthorized Practice is made up of five members appointed by the Supreme Court for two year terms. The Commission meets when necessary to investigate complaints of unauthorized practice of law.

## **COMMISSION ON COURTS OF LIMITED JURISDICTION**

On June 13, 1974, the Montana Supreme Court established an eight-person Commission on Lower Courts to study courts of limited jurisdiction and make recommendations for improvement in the administration of justice. Specifically, the Commission was charged with the duty to study and recommend to the court a set of rules of practice and procedure designed to carry out the principles of the 1972 Constitution and to improve and make court practice uniform throughout the state.

On August 18, 1976, the Montana Supreme Court re-established the eight-person Commission on Courts of Limited Jurisdiction. Their stated duty was: 1) to design and implement a plan for continuing education of Montana's lower court judges; 2) to use such a plan to develop the most effective use of the uniform rules, forms and procedures; and, 3) to propose further refinements and improvements of those uniform rules, forms and procedures.

Composition of the now ten-member Commission has changed from its inception until today to reflect a balanced representation. The current membership consists of one State Bar representative, one city attorney, one county representative, one member-at-large, one district judge, one justice of the peace from a larger jurisdiction, one justice of the peace from a smaller jurisdiction, one city judge from a larger jurisdiction, one city judge from a smaller jurisdiction, the president of the Montana Magistrate's Association, and a non-voting Supreme Court Justice as liaison.

Particularly since 1985, the Commission has provided oversight in the mandatory training and certification of all judges in courts of limited jurisdiction. Judges are required to attend two training conferences each year which have averaged almost 50 hours of judicial education annually.

Beginning in 1986 and continuing every four years thereafter the Commission conducts a Certification Conference including the administration of a Certification Test lasting approximately three hours. All judges are required to satisfactorily complete this test prior to assuming their duties as judges.

This very active commission continues to promote procedural refinements and improvements in courts of limited jurisdiction. Meeting ten times each year, they aggressively encourage professionalism and competence among judges who serve Montana's public in justice, city and municipal courts.

## BOARD OF BAR EXAMINERS

The Board of Bar Examiners is responsible for conducting the licensing examination for attorneys who wish to practice law in the State of Montana. In 1994 there were over 3000 attorneys licensed to practice law in Montana.

The Board of Bar Examiners is appointed by the Supreme Court. Terms of the Board members are permanent, however, the Supreme Court may release, dismiss, or remove any member of the Board and appoint other members in his or her stead at any time. The Supreme Court Administrator serves as the Board's Administrator.

The Board of Bar Examiners conducts the examination of applicants for admission to the bar. The Board performs such duties and renders such assistance in the examination of applicants as may be prescribed by the Supreme Court.

The Board offers one examination per year. The Multistate Bar Examination given on the last Wednesday of July is followed by the Montana Essay Examination on the following Thursday and Friday. Applicants are examined on their legal ability, and character and fitness to practice law. The Montana State Bar Examination consists of a one day Multistate Bar Examination and a one and one-half day Montana Essay Examination.

## STATE BAR EXAMINATION 1983-1994

DATE OF EXAM	NUMBER OF APPLICANTS	NUMBER SUCCESSFUL	PERCENT SUCCESSFUL
2-83	24	17	71
8-83	38	32	34
2-84	31	23	84
7-84	98	81	83
2-85	39	22	56
7-85	125	108	86
2-86	34	20	59
7-86	119	85	71
2-87	46	33	72
7-87	90	87	97
2-88	25	17	68
7-88	89	78	88
2-89	22	16	73
7-89	80	73	91
2-90	25	19	76
7-90	97	85	88
2-91	25	17	68
7-91	78	62	79
7-92	117	104	89
7-93	115	98	85
7-94	130	115	90

## **COMMISSION CONCERNING RULES OF ADMISSION TO THE PRACTICE OF LAW IN THE STATE OF MONTANA**

A Commission Concerning Rules of Admission to the Practice of Law in the State of Montana was created by Court Order of the Supreme Court on June 18, 1985. The Commission was instructed to study the Court's existing rules on admission to the practice of law and to make recommendations to the Supreme Court as the Commission deems appropriate.

Membership on the Commission is represented by two non-lawyers, one District Judge, one member of the Board of Bar Examiners, and seven members of the State Bar of Montana.

Members of the Commission are appointed by the Supreme Court for an indefinite term.

## **COMMISSION ON RULES OF EVIDENCE**

The Supreme Court established the Commission on Rules of Evidence by Order Number 12729 on April 5, 1974. The Commission on Rules of Evidence was instructed to study the present Code of Evidence and the practice thereunder, together with other developments and proposals in the field of evidentiary law and to make recommendations from time to time, for appropriate revision of the Code of Evidence.

The Commission on Rules of Evidence is made up of 13 members who are appointed by the Supreme Court for an indefinite term.

## **ADVISORY COMMISSION ON RULES OF CIVIL AND APPELLATE PROCEDURE**

The Advisory Commission on Rules of Civil and Appellate Procedure was established by Order of the Supreme Court on February 15, 1983. The Commission is charged with analyzing changes in the Federal Rules of Civil Procedure to determine

whether further modifications of the Montana Rules of Civil Procedure and the Montana Rules of Appellate Procedure should be adopted. Modifications are necessary from time to time in order to coordinate with federal rules and procedural changes. The goal is to keep current with developing changes and to promote speedy resolution of litigation.

The Advisory Commission meets periodically to review rules and make recommendations to the Supreme Court for necessary modifications.

The eleven member Commission is appointed by the Supreme Court for an indefinite term.

## **DISCIPLINARY BOARDS**

### **COMMISSION ON PRACTICE**

The Commission on Practice is responsible for examining complaints alleging unethical conduct by Montana attorneys.

The Supreme Court established the Commission by Order dated January 5, 1965. Besides receiving and investigating complaints of alleged misconduct, the Commission also has the responsibility for investigating and reporting on the merits of any petition for reinstatement to the practice of law.

The 1965 Order establishing the Commission on Practice called for the appointment of eight attorney members, one from each region established in the Order. The Supreme Court appointed members from a list of three nominees submitted from each area. On August 22, 1979, the Supreme Court enlarged the Commission from eight to eleven members. The three additional members are non-attorneys. They are appointed at large by the Supreme Court. All members of the Commission on Practice serve a four year term.

The Commission's caseload has increased significantly in the last few years. The Commission received 147 complaints in 1985, 165 complaints in 1986, 192 complaints in 1987, 194 complaints in 1988, 213 complaints in 1989, 227 complaints in 1990, 265 complaints in 1991, 249 complaints in 1992, 250 complaints in 1993. In 1994, the Commission received 242 complaints.

#### SUMMARY OF COMMISSION ON PRACTICE COMPLAINTS FOR THE YEAR 1994

Number of Complaints Filed for the Period-----	242
Number of Complaints Pending at the End of 1993-----	144
<b>TOTAL</b> -----	<b>386</b>
Dismissed by Commission -----	185
Written Private Reprimand (by COP)-----	11
Oral Private Reprimand----(by COP)-----	5
Private Censure -----(by Sup Ct)-----	2
Public Censure -----(by Sup Ct)-----	2
Suspension -----	3
Disbarment -----	2
Investigation Pending-----	27
Complaints Pending as of 12/31/94 -----	149
<b>TOTAL</b> -----	<b>386</b>

## JUDICIAL STANDARDS COMMISSION

Article VII, Section 11 of the Montana Constitution directs the Legislature to create a five member Judicial Standards Commission empowered to investigate complaints against any judge and to hold hearings concerning the discipline, removal, or retirement of any judge. The Commission is attached to the Supreme Court for administrative purposes only. The work, investigations, and recommendations of the Commission are entirely independent of the Supreme Court.

Whenever the Commission makes a recommendation to the Supreme Court concerning discipline or removal of a judicial officer, the Court may take appropriate action concerning the recommendation. The Supreme Court may censure, suspend or remove any justice or judge for willful misconduct in office, willful and persistent failure

to perform his duties, violation of canons of judicial ethics adopted by the Supreme Court of the State of Montana, or habitual intemperance. In addition, the Supreme Court may retire any justice or judge for a permanent disability that seriously interferes with the performance of his or her duties.

The Judicial Standards Commission is a five-member body consisting of two district judges from different judicial districts who are elected by all the district judges; one attorney who has practiced law in the state for at least ten years, appointed by the Supreme Court; and two citizens from different congressional districts who are not attorneys or judges, active or retired. These two members are appointed by the Governor. Members of the Judicial Standards Commission serve a four year term.

The Commission meets quarterly to consider complaints. The Commission received 12 complaints in 1985, 11 complaints in 1986, 37 complaints in 1987, 35 complaints in 1988, 37 complaints in 1989, 30 complaints in 1990, 34 complaints in 1991, 57 complaints in 1992, 29 complaints in 1993. In 1994, 41 new complaints were filed with the Commission.

#### SUMMARY OF JUDICIAL STANDARDS COMMISSION COMPLAINTS FOR THE YEAR 1994

Number of Complaints filed for the period-----	41
Number of Complaints pending at the end of 1993-----	14
<b>TOTAL</b> -----	<b>55</b>
Dismissed by Commission -----	41
Private Reprimand -----	3
Public Reprimand -----	0
Suspension -----	0
Disbarment -----	0
Disciplinary Proceedings instituted and pending -----	0
Complaints pending as of 12/31/94 -----	11
<b>TOTAL</b> -----	<b>55</b>

## **STATE BAR OF MONTANA**

### **HISTORY AND PURPOSE OF THE ASSOCIATION**

The State Bar of Montana was created by order of the Montana Supreme Court in January, 1974. In its Order, the Court provided that all persons practicing law in the state were obliged to be members of the State Bar. Prior to that date, the State had a voluntary bar association -- the Montana Bar Association.

The purposes of the State Bar are to aid the courts in maintaining and improving the administration of justice; to foster, maintain and require on the part of attorneys, high standards of integrity, learning, competence, public service, and conduct; to safeguard proper professional interests of members of the bar; to encourage the formation and activities of local bar associations; to provide a forum for discussion of and effective action concerning subjects pertaining to the practice of law, the science of jurisprudence and law reform, and relations of the Bar to the public; to provide for the continuing legal education of members of the Bar and to insure that the responsibilities of the legal profession to the public are more effectively discharged.

### **GOVERNANCE**

The State Bar is governed by a 20-member Board of Trustees. Sixteen members of the Board are elected by the active members of the Bar to two-year terms from State Bar areas. State Bar areas are made up of one or several judicial districts. The other four Board members are the President and President-Elect, who are elected statewide to one-year terms, the Secretary-Treasurer, who is elected statewide to a two-year term, and the Immediate Past President.

### **ACTIVITIES AND PROGRAMS**

Major activities and programs of the State Bar include:

A program of Mandatory Continuing Legal Education, requiring active members of the state Bar to secure 15 hours of continuing legal education each year.

A Client Security Fund which makes restitution in cases where an attorney has improperly appropriated client funds. Twenty dollars of each active member's dues is earmarked for this program. Since its inception through December 31, 1994, about \$400,000 in restitution has been paid by the Client Security Fund.

A Lawyer Referral Service, which allows members of the public to identify a lawyer who can help them with their particular legal problem. The Service receives about 5,000 calls and makes approximately 4,000 referrals each year.

A fee Arbitration Program to settle fee disputes between an attorney and a client short of litigation.

Publication of information pamphlets for the general public on a wide variety of legal subjects, including marriage and divorce, landlord-tenant law, small claims court, rights of clients, wills and probate, etc.

Character and fitness reviews to determine if applicants for admission to the State Bar possess the necessary traits of character and fitness for the practice of law.

Provision of direct financial support for legal services to the poor through the Montana Law Foundation.

A variety of services to its members, including continuing legal education seminars and legal publications.

1992-93	Sherry S. Matteucci	Billings
1993-94	Robert M. Carlson	Butte
1994-95	Robert J. Phillips	Missoula

### MEMBERSHIP DATA

As of December 9, 1994, State Bar membership totaled 3,226. Of this number, 2,480 are in-state members and 746 are out-of-state members. Of the same total, 2,621 were active members, 497 were inactive, and 92 had judicial status.

### FINANCIAL INFORMATION

Annual dues are \$120 for active members and \$50.00 for inactive members. Judicial members do not pay dues while serving on the bench. (These assessments are in addition to the \$25 paid to the Clerk of Court for the statutory lawyer license fee.)

Dues income constitutes the major source of income to the State Bar. Other revenue sources include income from State Bar sponsored continuing legal education programs and the sale of publications.

### PRESIDENTS OF THE ASSOCIATION

Past presidents of the State Bar of Montana are as follows:

1975-76	Marshall H. Murray	Kalispell
1976-77	Thomas H. Mahan	Helena
1977-78	Bruce R. Toole	Billings
1978-79	Theodore K. Thompson	Havre
1979-80	L. Morris Ormseth	Great Falls
1980-81	Robert D. Corette	Butte
1981-82	Alexander A. George	Missoula
1982-83	Ward A. Shanahan	Helena
1983-84	Sandy McCracken	Great Falls
1984-85	Douglas A. Wold	Polson
1985-86	George C. Dalthorp	Billings
1986-87	Terry N. Trieweller	Whitefish
1987-88	John A. Warner	Havre
1988-89	Max A. Hansen	Dillon
1989-90	Gary L. Spaeth	Red Lodge
1990-91	Damon L. Gannett	Billings
1991-92	James W. Johnson	Kalispell



State Bar of Montana Board of Directors

## THE UNIVERSITY OF MONTANA SCHOOL OF LAW

The University of Montana School of Law, founded in 1911, is the oldest professional school at the University of Montana. [The second professional school to be established at Montana State University (now University of Montana), the Law School was antedated only by the School of Engineering, which was transferred to Montana State College (now MSU) in 1913.] While the creation of a law school had been contemplated in the 1893 Act establishing the University of Montana, the founding of the Law School was made possible by a gift from the widow of William Wirt Dixon, a well known and respected Montana lawyer. Mrs. Dixon's gift spurred the Legislature to enact a bill establishing the Department of Law.

From an enrollment of 17 in the first year of its existence, the School of Law grew steadily until 1970 when the law faculty voted to cap admissions to the first year program at 75. Since 1970, the number of applications for admission to the Law School has far exceeded the number of positions available in the first year class. For example, six hundred applications were received for positions in the law class which entered in September of 1994.

In voting to limit to 75 the number of entering students, the law faculty also grants a preference in admissions to Montana residents.

Although the Law School ranks among the smallest ABA approved law schools in the nation, its student population is diverse. Typically, some thirty undergraduate institutions are represented in each entering class. The average entering age of law students today is approximately 30. As this statistic suggests, many students enter law school after engaging in other careers.

While the first woman was admitted to the Law School in 1913, it was not until the mid-1970's that women began applying to the Law School in large numbers. Since the early 1980's women have comprised between 30-45% of the student population. Thirty-five of the 75 students who began their law studies in September 1994 are women. This law school's Admission's Committee is studying ways to increase the number of women enrolled at the school.

Native American enrollment constitutes approximately 5% of the student population. The Law School's commitment to a strong Indian Law Program accounts in no small part for the relatively large enrollment of Native American students. In addition to courses in Indian Law, the Law School has for the last decade operated an Indian Law Clinic as a part of its clinical education program. While providing valuable services to the various tribal courts and governments, the Indian Law Clinic provides Indian and non-Indian law students the opportunity to develop knowledge and skills which will prepare them for work on or near Montana's seven Indian reservations.

During the last decade the law faculty have been engaged in an ambitious project to design and implement a curriculum which will prepare our graduates for the demands of modern law practice. To that end, the law faculty developed one of the most ambitious legal writing and professional skills programs in the country, designed an innovative introductory program for first year students, established a first-year law firm program, and developed teaching materials which integrate theory and practice. As a part of this curriculum project, the faculty are in the process of identifying what knowledge and skills every graduate should possess; what transactions every graduate should be competent to handle; and what personal qualities every graduate must develop to be an effective and



responsible lawyer.

The curriculum evolving from these efforts has attracted national attention. For example, the October 1990 issue of Prentice Hall's publication **Lawyer Hiring and Training Report** profiled three law schools considered to be the most innovative law schools in the nation. University of Montana School of Law is one of those three! The Law School was one of the small number of law schools whose curricular efforts were featured at the 1991 Association of American Law School's annual meeting in Washington, D.C. The August 1992 report of the ABA Task Force on Law Schools and the Profession: Narrowing the Gap cites the University of Montana School of Law curriculum efforts. These successes were further recognized when the National Jurist/Princeton Review ranked the Law School in the top ten percent of accredited law schools in America.

The Law School's emphasis in recent years on the integration of theory and practice has undoubtedly been an important factor in the School's remarkable record in various regional and national law school competitions. In 1992 the Law School's trial advocacy team won the national championship and placed second in the nation in 1989. In 1991, the Client Counseling team won the national finals and represented the School in international competition in London. The School's negotiation team has placed first in the Western Regional ABA Negotiations competition in three of the last five years, placing third in the nation in 1988. During the last twelve years, the Law School represented the Northwest eight times in the final rounds of the National Moot Court Competition in New York. In 1981 the Law School won the National Moot Court Competition. This record of accomplishment by UM teams certainly reflects favorably on the School's students, its faculty, and curriculum.

In addition to its work on curriculum, the law faculty continues to be active in research and writing and in public service activities. In the past 10 years, faculty have published approximately 10 books and 150 articles in prominent journals.

Faculty are leaders in law reform within Montana and nationally. They have initiated law reform within the state, have served on the Uniform Law Commission and as consultants to the American Law Institute, have testified before major Congressional Committees, have provided scholarly leadership nationally in the area of civil justice reform, have consulted with East-Central European nations in their transition to democracy and the rule of law, and have assisted tribal governments in developing tribal constitutions and codes, as well as having assisted in development of an inter-tribal court for the tribes of Montana and Wyoming.

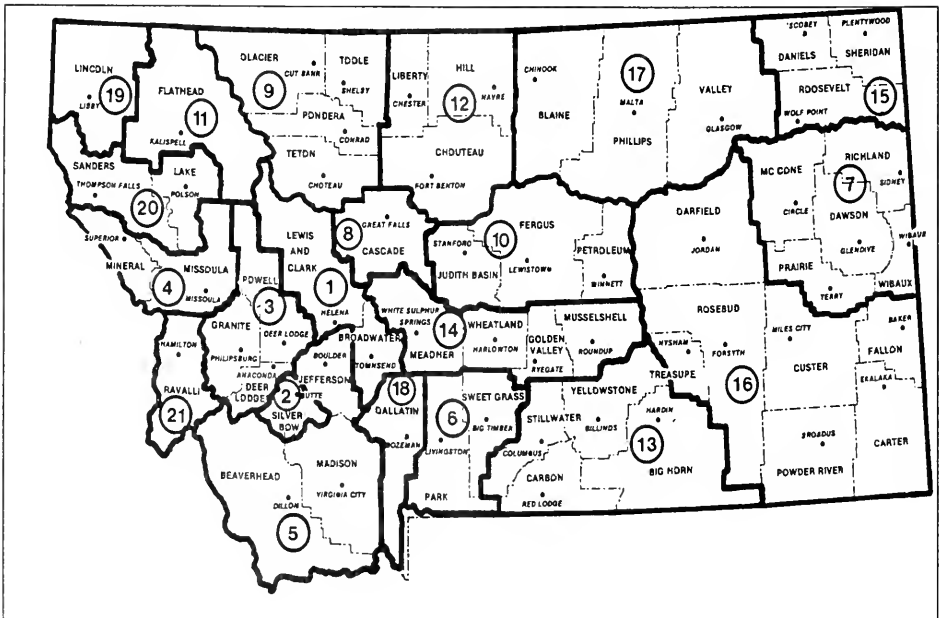
Public education regarding the law has also been a priority for the Law School. In recent years, the School has sponsored or co-sponsored public conferences on topics such as the 1972 Montana Constitution, the public's right to know versus the right of privacy, a patient's right to choose medical treatment, national health care policy and securities regulation. The Law School has participated with the Montana Supreme Court in programs designed to educate the public regarding the Montana judicial system. Each year, the Law School, in partnership with the Western Montana Bar Association and the Montana Trial Lawyers, conducts a seven week "Citizens Law School" program addressing a range of common legal problems. Hundreds of local citizens have taken advantage of this program.

The Law School has a long and proud tradition of education and public service. Together with the Judiciary and the Bar of this state the Law School is working to prepare students to be effective lawyers and leaders in their communities. As this brief overview indicates, Montanans have many reasons to be proud of the School of Law.

# JUDICIAL DISTRICT BY COUNTY

Beaverhead	5	Granite	3	Powell	3
Big Horn	13	Hill	12	Prairie	7
Blaine	17	Jefferson	5	Ravalli	21
Broadwater	1	Judith Basin	10	Richland	7
Carbon	13	Lake	20	Roosevelt	15
Carter	16	Lewis and Clark	1	Rosebud	16
Cascade	8	Liberty	12	Sanders	20
Chouteau	12	Lincoln	19	Sheridan	15
Custer	16	McCone	7	Silver Bow	2
Daniels	15	Madison	5	Stillwater	13
Dawson	7	Meagher	14	Sweet Grass	6
Deer Lodge	3	Mineral	4	Teton	9
Fallon	16	Missoula	4	Toole	9
Fergus	10	Musselshell	14	Treasure	16
Flathead	11	Park	6	Valley	17
Gallatin	18	Petroleum	10	Wheatland	14
Garfield	16	Phillips	17	Wibaux	7
Glacier	9	Pondera	9	Yellowstone	13
Golden Valley	14	Powder River	16		

## MONTANA JUDICIAL DISTRICTS



[REDACTED]

## ADDENDUM



1994

SUPREME COURT CLERK'S OFFICE  
ANNUAL STATISTICS

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